

104

S. Hrg. 104-268

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR

Y 4. G 74/9: S. HRG. 104-268

The Investigation of a Friendly Fir...

HEARING

BEFORE THE
PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS
OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

JUNE 29, 1995

Printed for the use of the Committee on Governmental Affairs



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DEPOSITORY

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THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR

THURSDAY, JUNE 29, 1995

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:08 a.m., in room 342, Dirksen Senate Office Building, Hon. William V. Roth, Jr., Chairman of the Subcommittee, presiding.

Present: Senators Roth, Thompson, and Grassley.

Staff Present: Harold Damelin, Chief Counsel and Staff Director, Eric Thorson, Chief Investigator, Carla J. Martin, Chief Clerk, Sallie B. Cribbs, Executive Assistant, Christopher Greer, Investigator, Jack Cobb, Counsel, Michael Bopp, Counsel, Kathryn O'Connor, Receptionist, Suzanne Horner, Librarian, Daniel S. Gelber, Chief Counsel to the Minority, John Sopko, Deputy Chief Counsel to the Minority, Mary Robertson, Assistant Chief Clerk to the Minority, Alan Edelman, Minority Counsel, Mark Webster, Minority Investigator, Scott Newton, Minority Investigator, Dale Cabiness (Senator Stevens), Rick Valentine (Senator Smith), Charlie Murphy (Senator Grassley), Claudia McMurray (Senator Thompson), Jack Kennedy (Senator McCain), Janna Eaton (Senator Thompson), Cathy O'Brien (Senator Nunn), Julie Mickle (Senator Nunn), Hannah Sistone (Senator Thompson), Bonnie Samsonetti (Senator Thompson), and Brian Dettelbach (Senator Glenn).

OPENING STATEMENT OF CHAIRMAN ROTH

Chairman ROTH. The Subcommittee will please come to order.

This morning, the Subcommittee will review a painful chapter in what was generally a proud moment in our Nation's history, Operation Desert Storm. The war in the Persian Gulf is justifiably remembered primarily for its successes. But no war is without its tragedies, and, sadly, today we are here to examine one such tragedy—an unfortunate event compounded by a series of almost incomprehensible missteps by the Army.

In the early morning hours of February 27, 1991, in the Iraqi desert, a group of five American soldiers, engineers—from the 1st Armored Division's 54th Engineering Battalion—were waiting to be rescued after one of their vehicles had broken down. They were pulled off to the side of what was called the “log line” or logistics line. U.S. forces were known to be in that area. In fact, American

trucks had been passing within 50 feet of these soldiers most of the night.

Yet, at approximately 3 a.m. that morning, rather than welcoming a rescue party, these American soldiers were fired upon by another group of American soldiers from the 3rd Armored Cavalry Regiment, who were in Abrams battle tanks and Bradley fighting vehicles.

In the initial round of fire, one soldier was wounded in the leg. In a subsequent volley of fire, another soldier, Sergeant Lance Fielder, was shot in the chest and killed—a victim of what is ironically called “friendly fire.” Both Sergeant Fielder and his parents have made the greatest sacrifice that our military forces can ask of a soldier and a soldier’s family.

Within 48 hours, the Army informed Sergeant Fielder’s parents that their son had been killed. But the Army told his parents that Sergeant Fielder was killed in a firefight with Iraqi soldiers. It was not until 2 months later that his parents found out the truth about how their son had died. And the truth did not then come through official Army channels. Rather, in May of 1992, two of Sergeant Fielder’s friends called the family to tell them the truth, that Sergeant Lance Fielder had been killed by American forces who had mistaken Sergeant Fielder’s small unit to be the enemy.

It took the Army 6 months to officially notify Sergeant Fielder’s parents of the true cause of their son’s death. However, it took the Army only 2 months to award Bronze Stars with “V”s to signify valor to members of the unit responsible for Sergeant Fielder’s death. In fact, the Army awarded the medals on May 2, 1991, the same day—the same day—Sergeant Fielder’s parents were finding out from their son’s friends what they should have been told by the Army: that their son’s death was due to friendly fire.

The Army conducted several investigations of this tragic incident. The first two of these investigations found no wrongdoing on anyone’s part. However, a third review found that three officers in the unit responsible for Sergeant Fielder’s death had acted improperly. While the Army issued letters of reprimand to these three officers, two were not included in these officers’ permanent personnel records, and the other letter was withdrawn. In fact, several soldiers involved were promoted and decorated for this incident. In receiving these medals, these soldiers were commended for “exceptionally meritorious heroism in support of actions against a hostile force.”

The problem is, there was no hostile force. In fact, the evidence shows that the engineers whose vehicle had broken down never so much as fired a shot. Their commanding officer, Lieutenant Kevin Wessels, realizing all of his men could soon be killed, stood up with his hands raised and walked into the line of fire until he was finally recognized as an American. The Army did not award Lieutenant Wessels the Bronze Star for his actions that night. Rather, the Army issued him a letter of admonishment, stating that he may have “indirectly contributed to this tragic incident.” This letter is also part of this tragedy, as an admonishment certainly does not appear to be justified by the evidence provided to us by the Army.

Our role here today is to determine the truth. Above all else, this country owes the family of Sergeant Fielder, and all families who

suffer the loss of a son or daughter in military service, the absolute truth. This is the very bedrock of integrity within our military system.

We are here because serious questions exist concerning the adequacy of the Army's investigation of this matter. We question: why it took the Army 6 months to tell Sergeant Fielder's parents the true story of how their son died; why, within 4 days of this tragic incident, recommendations were forthcoming for bravery and medals of valor; why some of those involved were promoted, despite evidence of wrongdoing; and why was it that, only after significant Congressional interest, the medals were finally withdrawn.

We are also here to establish accountability. Accountability is the basis for our military command and control structure. The case we are dealing with today involves the ultimate in accountability—accountability for the lives of our Nation's military men and women who we dispatch to the far corners of the world to defend our Nation and what we stand for.

I want to thank the family of Sergeant Fielder for their persistence and for their patience. I know that it has been a long, hard road to this hearing.

[The prepared statement of Senator Roth follows:]

PREPARED STATEMENT OF WILLIAM V. ROTH

The Subcommittee will come to order. This morning, the Subcommittee will review a painful chapter in what was generally a proud moment in our nation's history—Operation Desert Storm. The war in the Persian Gulf is justifiably remembered primarily for its successes. But no war is without its tragedies. Sadly, today we are here to examine one such tragedy—an unfortunate incident compounded by a series of almost incomprehensible missteps by the Army.

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Yet, at approximately three o'clock that morning, rather than welcoming a rescue party, these American soldiers were fired upon by another group of American soldiers from the Third Armored Cavalry Regiment, who were in Abram Battle Tanks and Bradley Fighting Vehicles.

In the initial round of fire, one soldier was wounded in the leg. In a subsequent volley of fire, another soldier, Sergeant Lance Fielder, was shot in the chest and killed—the victim of what is ironically termed, "friendly fire." Both Sergeant Fielder, and his parents, have made the greatest sacrifice that our military forces can ask of a soldier and a soldier's family.

Within 48 hours, the Army informed Sergeant Fielder's parents that their son had been killed. But the Army told his parents that Sergeant Fielder was killed in a fire fight with Iraqi soldiers. It was not until two months later that his parents found out the truth about how their son had died. And the truth did not then come through official Army channels.

Rather, in May of 1991, two of Sergeant Fielder's friends called the family to tell them the truth—that Sergeant Lance Fielder had been killed by American forces, who had mistaken Sergeant Fielder's small unit to be the enemy.

It took the Army six months to officially notify Sergeant Fielder's parents of the true cause of their son's death. However, it took the Army only two months to award Bronze Stars with "V's" to signify valor to members of the unit responsible for Sergeant Fielder's death. In fact, the Army awarded the medals on May 2, 1991, the same day Sergeant Fielder's parents were finding out from their son's friends what they should have been told by the Army—that their son's death was due to "friendly fire."

The Army conducted several investigations of this tragic incident. The first two of these investigations found no wrongdoing on anyone's part. However, a third re-

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- why, within four days of this tragic incident, recommendations were forthcoming for bravery and medals of valor;
- why it took the Army six months to tell Sergeant Fielder's parents the true story of how their son died;
- why some of those involved were promoted, despite evidence of wrongdoing; and
- why was it that, only after significant Congressional interest, the medals were finally withdrawn.

We are also here to establish accountability. Accountability is the basis for our military's command and control structure. The case we are dealing with today involves the ultimate in accountability—accountability for the lives of our nation's military men and women who we dispatch to the far corners of the world to defend our nation and what we stand for.

I want to thank the family of Sergeant Fielder for their persistence, and their patience. I know that it has been a long, hard road to this hearing.

I now turn over the gavel to Senator Fred Thompson. Fred has been pursuing this matter diligently for months, and has provided the force and motivation behind the General Accounting Office's excellent investigative report.

Because of Senator Thompson's hard work and great concern about this issue, and because Sergeant Fielder was a native of Tennessee, I have asked Senator Thompson to chair today's hearing. I want to thank Senator Thompson for his leadership in bringing this matter to the attention of the Senate and of the American people.

Senator ROTH. I shall now turn over the gavel to Senator Fred Thompson. Fred has been pursuing this matter diligently for months and has provided the force and motivation behind the General Accounting Office's excellent investigative report.

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OPENING STATEMENT OF SENATOR THOMPSON

Senator THOMPSON [presiding]. Thank you very much, Chairman Roth, for offering me the opportunity to preside over this important hearing. I also want to thank you for acceding to my request and authorizing the Subcommittee to conduct an investigation into this tragic incident, the so-called friendly fire case that happened in the closing days of the Persian Gulf War.

Today, we will examine the circumstances surrounding the death of a fine soldier and a young Tennessean, Sergeant Lance Fielder. We will hear testimony concerning both the circumstances under which Sergeant Fielder died and what happened or did not happen in the aftermath of his death.

This Subcommittee does not and should not normally look into the operations of the military during wartime. We do not and should not regularly assume the role of Monday morning quarterback, to second-guess the decisions made by our Nation's military in the heat of combat.

Having said that, though, the facts as we understand them in this case so far cry out for us to make an inquiry into this case. In this Subcommittee's investigation, we have learned not just that mistakes occurred to bring about Sergeant Fielder's death, mistakes that appear to have been clearly avoidable, we have also learned that the tragedy was compounded when the Army failed to investigate the incident properly, initially notified the family that their son had been killed by Iraqis, and awarded medals to those responsible for the accident.

The first thing we have to ask ourselves is what we hope this hearing will accomplish. My focus today, as it has been since I first became aware of this case, is on two questions. First and foremost, what are the true facts as to how Sergeant Fielder was killed and what happened afterwards? And secondly, what can we learn from what happened to prevent situations like this from occurring in the future?

There are a number of reasons why this search for the truth is important. We cannot restore a son in the prime of his life to Sergeant Fielder's parents. However, we owe his mother and his father and the rest of his family an honest and factual, correct account of how he lost his life in the service of his country.

Sergeant Fielder's parents have spent over 4 years pursuing the truth and are still waiting to learn exactly what led to their son's death and why it took so long for them to hear the words "friendly fire", and why those who participated in the incident were awarded with medals for valor.

We must also get to the bottom of this incident and its aftermath to assure that both the appropriate individuals and institutions are held accountable for what occurred. If the Army does not face the facts of this situation squarely and take responsibility, then it will lose the confidence of all Americans.

If this hearing results in some changes in Army procedures for investigating those incidents that can bring the truth to the surface rapidly, this investigation and this hearing will have been a success. Moreover, the confidence that Americans, including other parents who send their sons and daughters to future combat posts, have in our Army will have been vindicated. In addition, it is my hope that we can preserve the importance and value of the medals rightfully earned by so many brave soldiers by making sure that all medals are supported by true statements and actually based on acts of merit and valor.

This hearing is not an effort by Congress to criticize the Army in an unfair way. Let me make clear to everyone who is participating in this hearing room or may be watching it that my purpose

is just the opposite. I hope that this investigation will result in a stronger United States Army.

I think that the men in Sergeant Fielder's unit who had the courage to go to Sergeant Fielder's parents with the truth, and, indeed, every soldier who has earned the Bronze Star, would share my hope for this investigation and today's hearing.

PREPARED STATEMENT OF SENATOR FRED THOMPSON

Thank you, Chairman Roth, for offering me the opportunity to preside over this important hearing. I also want to thank you for authorizing this subcommittee to conduct at my request an investigation into this tragic incident of so-called "friendly fire" in the closing days of the Persian Gulf War.

Today, we will examine the circumstances surrounding the death of a fine soldier and young Tennessean, Sergeant Lance Fielder. We will hear testimony concerning both the circumstances under which Sergeant Fielder died, and what happened—or did not happen—in the aftermath of his death.

This Subcommittee does not—and should not—normally look into the operations of the military during wartime. We do not—and should not—regularly assume the role of "Monday Morning Quarterback" to second guess the decisions made by our nation's military in the heat of combat.

Having said that, the facts as we understand them so far cry out for us to make an inquiry into this case. From this investigation, we have learned not just that mistakes occurred to bring about Sergeant Fielder's death—mistakes that appear to have been clearly avoidable. We also have learned that the tragedy was compounded by the failure to investigate the incident properly, by initially notifying the family that their son had been killed by Iraqis, and by awarding medals to those responsible for the accident.

The first thing we have to ask ourselves is what we hope this hearing will accomplish. My focus today, as it has been since I first became aware of the Fielder case, is on two questions:

First, and foremost, what are the true facts of how Sergeant Fielder was killed and what followed afterwards? and,

Second, what can we learn from what happened to prevent situations like this from occurring in the future?

There are a number of reasons why this search for the truth is important. We cannot restore a son in the prime of his life to Sergeant Fielder's parents. However, we owe his mother, father, and the rest of his family an honest and factually correct account of how he lost his life in the service of his country.

Sergeant Fielder's parents have spent over four years pursuing the truth, and are still waiting to learn exactly what led to their son's death, why it took so long for them to hear the words "friendly fire," and why those who participated in the incident were awarded with medals for valor.

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Senator THOMPSON. Senator Grassley?

OPENING STATEMENT OF SENATOR GRASSLEY

Senator GRASSLEY. On most everything that I work on in the Defense Department, I find that there is a great deal of peer pressure to go along to get along, and I think this is one of those examples that you can see, that nobody wants to rock the boat. If we are going to get answers to questions, you cannot be afraid to rock the boat, and I thank Senator Thompson and Senator Roth for their leadership in this area. I think that they and their staffs have done an outstanding job.

We have a terrible accident that has to be put under the microscope, an accident where American soldiers accidentally killed and wounded other American soldiers. I think you, Mr. Chairman, have laid out for us under the microscope a slide for all of us to see. Now we need to try to understand what all this means.

The work done by these Senators and their staffs are helping to clear away the fog, and I do not think we see a very pretty picture. A penetrating analysis has exposed the Army's inner soul to examination. I am not happy with what I see in this case. The Army's conscience seems to be numb, like it took a massive dose of Novocaine. The Army's leadership seems unable to distinguish between right and wrong, and leadership that cannot distinguish between right and wrong lacks integrity. To me, this appears to be a case of organized lying, lying by the Army. Others may see it differently, but this is how I see it.

There is no disagreement about what happened in the Iraqi desert during that early morning hour described by Senator Roth. Accidents on battlefields are unfortunate, but they do happen. The risk is understood and the risk is accepted. It is what happened after the accident that is dirty and corrupt. I see a string of lies.

First, I see the Army lying to a dead soldier's family. The Army told the parents that their son was killed in a firefight with Iraqi soldiers when the Army knew full well that he was killed by American soldiers.

Next, I see Army officers lying to each other and their superiors about heroic deeds, which were never done, in the face of hostile force, which did not exist.

Third, I see reverse accountability, and reverse accountability is where the culprits get rewards and promotions and the heroes get punished. The Army punished the one person most responsible for saving the lives and bringing the accidental gunfire to a halt. This person is Lieutenant Kevin Wessels. What he did was done at great personal risk to himself. He deserves a medal for heroism. His punishment is fraudulent.

More senior American officers tried to evade responsibility by blaming Wessels. It is the same old story you hear so often. The good guys get hammered; the culprits get promoted. Too often, that is the way the Pentagon does things, because it is easier to go along to get along.

The two people most responsible for the accidents are Colonel Douglas Starr and Lieutenant Colonel John H. Daly, Jr. Starr was promoted to the rank of Brigadier General and Daly's promotion to Colonel is currently pending.

Next, we have Army investigations that failed to uncover the truth.

Mr. Chairman, I know that these are harsh words. These things are very difficult to say, but that is what the evidence shows, and what the evidence shows is a disgrace. The military has a way of turning the code of ethics upside down, and this accident was no isolated case. It is part of a destructive pattern that I see every time we probe deeply into military disasters.

The accident involving the U.S. Navy Aegis cruiser, the U.S.S. Vincennes is similar to this incident. The Vincennes accidentally shot down an Iranian airliner, killing 290 people. The ship thought that it was firing on hostile Iranian F-14 jets. Who was held accountable for this tragedy? No one.

Many of the people involved were rewarded. The ship's captain and a number of officers in the Combat Information Center where the decision to fire was set up received medals and promotions. The only one to pay the price for this colossal error may be those who went down with Pan Am 103, because there is evidence that the Iranians were going to avenge the downing of their airliner through that act.

More recently, we had the tragic accident where two U.S. F-15 fighters shot down two U.S. Army Blackhawk helicopters over Northern Iraq. They mistook the Blackhawks for Iraqi Hind helicopters—even though they made visual identification. Twenty-six people died. No one is accountable, no one is responsible.

So, Mr. Chairman, the military seems unable to deal with these accidents in an honest and a forthright manner, and I am so afraid that this kind of dishonest behavior will eventually destroy the Army, as you fear, Senator Thompson. Honesty is a cornerstone of leadership. That is what the Army's own leadership manual says. That is not what Chuck Grassley says.

The Army cannot function effectively without top-notch leadership. The Army will need first-rate leadership to win a large-scale war in the future, where our will and our power are really put to the supreme test, but Army leaders who set a bad example, like in the case before the Subcommittee today, will have no followers when this type of thing goes on and the going really gets tough.

Dishonest behavior like that undermines trust among the officers and between the officers and the enlisted men. It will send a terrible signal to the rest of the Army. It undermines discipline and morale throughout the Army.

This Committee, Mr. Chairman, must do everything within its power to undo what has been done as a result of the accident. We need honest and just accountability. We need to turn things right-side up. We need to do everything in our power to block the pending promotion of Lieutenant Colonel John H. Daly.

We need to do everything in our power to make sure that First Lieutenant Kevin Wessels is properly rewarded for his heroic action on February 27, 1991. And, we should do everything in our power to make sure that the Army removes the letter of admonishment placed in Lieutenant Wessels' personnel file.

I would like to work with you, Senator Thompson, and Chairman Roth to make sure that these things happen.

Senator THOMPSON. Thank you very much, Senator Grassley.

Our first witness this morning will be Richard C. Stiener. Mr. Stiener is the Director of the Office of Special Investigations for the

General Accounting Office. Mr. Stiener will present the results of the GAO's investigation of this matter.

Mr. Stiener, we appreciate your being here this morning. As you know, we swear in all witnesses who appear before this Subcommittee and I will now ask you to rise and raise your right hand.

Do you swear that the testimony you will give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. STIENER. I do.

Senator THOMPSON. Thank you. Would you identify for the record the people who are accompanying you, Mr. Stiener?

Mr. STIENER. Yes, sir. I have with me today Assistant Director Barbara Cart, who is in charge of the unit responsible for this investigation. Also with me is Special Agent Randy Stone, who was the lead investigator for our effort.

Senator THOMPSON. We are pleased to have you with us.

Do you have a statement, Mr. Stiener?

Mr. STIENER. Yes sir, I do. I would like to, with your permission, submit that statement for the record and, in the interest of time, summarize for the hearing this morning.

Senator THOMPSON. That will be done. Thank you.

TESTIMONY OF RICHARD C. STIENER,¹ DIRECTOR, OFFICE OF SPECIAL INVESTIGATIONS, UNITED STATES GENERAL ACCOUNTING OFFICE; ACCOMPANIED BY BARBARA CART AND RANDY STONE, UNITED STATES GENERAL ACCOUNTING OFFICE

Mr. STIENER. Mr. Chairman and Members of the Subcommittee, we are pleased to be here today to discuss our April 1995 report concerning our investigation of events leading to a fratricide incident during the Persian Gulf War. We also assessed the adequacy of U.S. Army investigations following the incident and investigated allegations that Army officials hindered those investigations or influenced their outcome.

The fratricide involved engineers attached to the Army's 1st Armored or 1st AD and elements of the Army's 3rd Armored Cavalry Regiment, or the 3rd ACR. One U.S. soldier, Army Sergeant Douglas Lance Fielder, was unintentionally killed. A second, Sergeant James E. Napier, was wounded.

I would now like to discuss the events surrounding the incident. On August 2, 1990, Iraqi military forces invaded the Emirate of Kuwait. They refused to withdraw by the United Nations-imposed deadline of midnight, Eastern Standard Time, January 15, 1991.

U.S. and allied forces thus implemented Operation Desert Storm on January 17, 1991, beginning with an extensive air campaign. The ground war began on February 24, 1991, and ended February 28, 1991, when allied commanders declared a cease fire.

At approximately 2:30 a.m. Persian Gulf Time on February 27, 1991, near Umm Hajul, Iraq, elements of the 3rd ACR, while attacking an Iraqi airfield, crossed a U.S. Army Corps boundary line into a sector known to be controlled by the 1st AD. According to the I Troop Commander of the 3rd Squadron, Captain Bo Friesen,

¹ The prepared statement of Mr. Stiener appears on page 72.

he initially ordered the gunner of his Abrams main battle tank to fire warning shots away from suspected Iraqi ground troops.

Those troops were instead the engineers of Charlie Company who were awaiting recovery of their disabled vehicle. The two engineers who were observing the 3rd Squadron's vehicles stated that they attempted to identify themselves before and after they were fired upon and they saw no warning shots. They claimed the first shots were fired directly at them.

Immediately on firing the warning shots, Captain Friesen's tank driver and gunner reported return fire from the engineers' position, a claim the engineers and other 3rd Squadron troops dispute. Captain Friesen ordered his gunner and two Bradley fighting vehicles to fire. A cease fire was then called. Sergeant Napier was wounded during this firing sequence.

While I Troop elements were developing and engaging the targets, the 3rd Squadron Commander, Lieutenant Colonel John H. Daly, Jr., moved into the engagement area. Once at the scene, he did not ask for Captain Friesen's assessment of the situation, which at that point appeared to the Captain to be under control. In addition, when one of two troops riding in Lieutenant Colonel Daly's Bradley asked to dismount in order to confront the suspected Iraqi troops, Lieutenant Colonel Daly dismounted the two without coordinating his actions with Captain Friesen or any of his subordinate units. This dangerously exposed the dismounts to the risk of fratricide.

Further, relying on his Bradley gunner's assessment, Lieutenant Colonel Daly ordered his gunner to fire at an unconfirmed target. Sergeant Fielder was killed during this firing sequence. Seconds before the Bradley gunner fired, First Lieutenant Kevin Wessels, the engineers' Executive Officer, had fired a green star cluster to illuminate the area. Unknown to the Lieutenant at the time, a green star cluster was a daytime ground-to-ground anti-fratricide recognition signal.

We estimate that the time between the first shots and the fatal shots was 7 minutes, 15 seconds. We also estimate that 25 minutes elapsed between when I Troop, 3rd Squadron, first misidentified the engineers and their identification as U.S. troops.

Among the critical factors resulting in the fratricide were the 3rd ACR's Operation Plan and Operation Order for the February 27, 1991, mission. They were incomplete and contained contradictory, outdated intelligence information about enemy presence. Further, coordination between the VII Corps and the XVIII Airborne Corps along the boundary had disintegrated. In addition, maps used by the 3rd ACR commanders and troops in preparation for the mission were outdated and did not accurately depict the 3rd ACR's objective. Communications failures from the 3rd ACR through the squadrons to the troops also contributed to the confusion leading to the incident.

However, of greater consequence, both the 3rd ACR Commander, Colonel Douglas Starr, and the 3rd Squadron Commander, Lieutenant Colonel Daly, failed to maintain command and control of their subordinate units. They did not ensure subordinates' knowledge of their southern boundary, past which they knew friendly forces might be located. They did not determine their and their units' po-

sitions relative to the boundary. Furthermore, Lieutenant Colonel Daly did not abide by the stated rules of engagement, which were not to fire unless fired upon and not to fire below the boundary.

Mr. Chairman, we found the AR-15 investigation to be incomplete and inaccurate. Among other shortcomings, both investigating officers overlooked numerous documents and other information, including an audiotape recording of the incident that we located. They did not elicit evidence that some 3rd Squadron personnel, including crew members aboard the 3rd Squadron Commander's Bradley, had recognized U.S. vehicles before the fatal shots were fired.

Both misstated facts, such as that the engineers were not wearing Kevlar helmets or load bearing equipment that would have aided identification. Neither investigating officer attempted to confirm statements concerning return fire. Neither investigators' conclusions and recommendations, which absolved all participants of any responsibility, were supported by the evidence available.

Later, a Forces Command Staff Judge Advocate, at the direction of the Commander in Chief, Headquarters Forces Command, performed a legal review and analysis of the report of investigation. He stated to us it was his supposition that the second investigating officer had skewed objectivity and a predetermined conclusion concerning the case.

This coincides with the results of recent GAO and Department of Defense studies that question the independence of command-directed investigations. That type of an investigation, according to the 1994 DOD study, is most subject to abuse and the investigators who conduct them are more subject to command influence.

The Forces Command Staff Judge Advocate recommended reversing the two investigating officers' findings, noting among other failings the involved 3rd ACR officers' negligent actions that placed their soldiers at risk and their dereliction of duty for assuming that personnel in a rear area were enemy.

Based on his recommendations, three 3rd ACR officers were issued letters of reprimand and the engineer's Executive Officer was issued a memorandum of admonition. After those reprimanded replied to the reprimands, the Commander in Chief, Forces Command, General Edwin H. Burba, at his discretion, directed that two reprimands not be made part of the officers' permanent military files and that the third be withdrawn.

During our investigation, we learned that heroism awards related directly to the fratricide incident had been given to three officers and several men of the 3rd ACR. These awards were based on misleading statements and misrepresentations made by the 3rd ACR Commander, Colonel Starr, and the 3rd Squadron Commander, Lieutenant Colonel Daly. Award support documents for the officers referred to enemy presence and hostile fire during the fratricide incident. Two of the awards indicated the actions had occurred at an airfield about 28 kilometers from the incident cite.

In May 1994, we briefed the Army on our investigative findings, including those concerning the heroism awards. Following that briefing, the Army Office of Inspector General analyzed the awards. In August 1994, the Army OIG requested the Assistant Secretary of the Army for Manpower and Reserve Affairs to revoke the

awards as the "award recommendations revealed that they were not in contact with an armed enemy."

Even though the Army OIG recommended the revocation of the awards, it indicated that it had found "no evidence that any individual falsified information in the awards recommendations." However, we have found that several of the support documents justifying the awards contain misleading statements and misrepresentations that were submitted by those directly involved in the fratricide incident.

In our April 1995 report, we recommended that the Secretary of the Army first reexamine for their appropriateness the disciplinary actions taken regarding this fratricide incident and the disposition of those actions, and second, follow up on the Army OIG request that improperly supported awards for participation in fratricide incidents be revoked.

On June 27, 1995, too late to include in our printed statement for today, we received official comments from the Department of Defense concurring with these recommendations. The Army anticipates that it will complete its review of the appropriateness of the disciplinary action by September 1, 1995. In addition, the Secretary of the Army has revoked the initial and subsequent awards for the fratricide incident, pending further review, and the Army is reviewing all awards received by soldiers involved in fratricide incidents during Desert Shield and Desert Storm to determine their propriety.

Further, the Department of Defense advised us that, as a result of our investigation and other lessons learned, the Army is reviewing the overall AR 15-6 investigative process.

This completes my prepared remarks, sir, or my summation. We would now welcome any comments or questions.

Senator THOMPSON. Thank you very much, Mr. Stiener.

You have referred to the 3rd ACR, which, of course, is the 3rd Armored Cavalry Regiment. Just for points of clarification, they were individuals from the 3rd who ultimately were firing on the 1st AD, as you referred to, which is the division that the engineers were in support of, is that basically correct?

Mr. STIENER. Correct, yes, sir.

Senator THOMPSON. So the 3rd was ultimately engaged with the First. In general, what was the primary mission of the 3rd Armored Cavalry Regiment?

Mr. STIENER. Agent Stone can respond to that.

Mr. STONE. Thank you, Mr. Chairman. The 3rd Armored Cavalry Regiment, its primary mission was to conduct a flank screen coordination along the XVIII Airborne Corps/VII Corps boundary and to be involved in maintaining coordination points throughout the movements throughout the desert.

Senator THOMPSON. What was the general mission of the 54th Engineer Battalion, of which these young men who were fired upon were a part?

Mr. STONE. They were to provide combat support or logistic support for the 1st Armored Division, which was a part of the VII Corps.

Senator THOMPSON. Can you, looking at that chart there, briefly take us through the movement of the troops prior to the fratricide?

Mr. STONE. Yes, sir. From the time the ground war began, the 3rd Armored Cavalry Regiment, which was, as looking at the chart, was to the left, on the XVIII Airborne Corps arrow, and as they proceeded throughout the desert, they became involved in what was known as the "Hail Mary Move" within the Gulf War. The VII Corps, which is depicted by the arrow, to the right or to, ultimately, the south of the XVIII Airborne Corps was involved in that same maneuver.

Senator THOMPSON. On February 26, 1991, when Colonel Starr received an order to attack the airfield, did he have certain concerns about the Corps boundary that you have referred to?

Mr. STONE. Yes, sir, he did.

Senator THOMPSON. First of all, explain what that boundary is and its significance.

Mr. STONE. I think the primary role of the boundary is to maintain the separation of the units, and—

Senator THOMPSON. The 3rd was above the boundary and the 1st was below the boundary, is that correct?

Mr. STONE. That is correct.

Senator THOMPSON. Operating in those areas?

Mr. STONE. That is correct.

Senator THOMPSON. All right, sir.

Mr. STONE. And when the 3rd Armored Cavalry Regiment received the mission to attack or assault this particular airfield, the Regimental Commander, Colonel Starr, had concerns that the airfield was close to the boundary.

Senator THOMPSON. The airfield being above the boundary?

Mr. STONE. Yes, sir, it was. It was approximately—the southernmost tip of the airfield was 800 meters north of the boundary, and Colonel Starr, at that point, requested from the 1st Armored Division a buffer zone or a safety box in order to maneuver, as he said, effectively around the airfield. Colonel Starr requested on two occasions to the 1st Armored Division, specifically, the Assistant Division Commander, that they be granted this buffer zone, and on both accounts, he was denied that request.

Senator THOMPSON. Because the 1st was operating in that area and they had supply lines in that area that they wanted to preserve, I assume, is that correct?

Mr. STONE. That is correct. That was the reason the 1st Armored Division could not be assured, even though it had moved further to the east than the 3rd Armored Cavalry Regiment, they were concerned that they had logistic support personnel in that area.

Senator THOMPSON. So what did Colonel Starr do to address his concerns about the Corps boundary, past that?

Mr. STONE. Once he was denied the buffer zone, he then, in the middle of the movement of the 3rd Armored Cavalry Regiment to attack this airfield, he changed the operation plan.

Senator THOMPSON. Did you state whether or not he made one or more than one request to move that boundary?

Mr. STONE. Yes, sir, he did. He requested on at least two occasions the buffer zone.

Senator THOMPSON. All right, sir.

Mr. STONE. And once he received the final notification of the denial of the buffer zone, which was approximately 2200, or I guess

that is 10 p.m. at night, the 3rd Armored Cavalry Regiment was already in the process of moving towards to attack this airfield, and as they moved, they went through several coordination points to get to this particular location.

Once they arrived at this one particular location, Colonel Starr then advised Lieutenant Colonel Daly, who was the 3rd Squadron Commander, that there was going to be a change in the orientation of attack. The initial plan called for the 3rd Armored Cavalry Regiment to breach the boundary approximately seven kilometers south of the boundary line.

Senator THOMPSON. All right. Did Colonel Starr or any of the troops under his command, in fact, cross the Corps boundary line?

Mr. STONE. Yes, sir, they did. The units attached to the 3rd Squadron, under the command of Lieutenant Colonel Daly.

Senator THOMPSON. Was that contrary to previous orders?

Mr. STONE. Yes, sir, it was.

Senator THOMPSON. In your view, why did they end up crossing the Corps boundary?

Mr. STONE. I think there were many reasons, but I think four particular points. One was the change in the original operation plan. When Colonel Starr changed the operation plan and he issued a fragmentary order to the 3rd Squadron and to the remaining squadrons of the 3rd Armored Cavalry Regiment, he did not advise them of all the pertinent information that was needed at that time.

Along with that, once Colonel Starr advised Colonel Daly of that information, Colonel Daly nor Colonel Starr advised their subordinate commanders of all these details of the changed operation plan.

And then as they continued to move, the 3rd ACR depicted a fence and a control tower in the desert, and once they saw that fence and that control tower, they became confused, and thinking that the airfield was within the fenced area, they breached that fence at that time, going below the boundary.

Senator THOMPSON. Mr. Stone, based on your investigation of the incident, did you uncover any evidence that the engineers ever returned fire?

Mr. STONE. No, sir. Although there are some individuals who stated they saw return fire, our investigation disputes that claim.

Senator THOMPSON. Did the airfield which was the objective of the 3rd ACR assault intersect the Corps boundary, as the AR 15-6 investigation had found?

Mr. STONE. No, sir. As I previously stated, the southernmost tip of the airstrip was approximately 800 meters north of the boundary.

Senator THOMPSON. Several statements in the AR 15-6 investigation mention a dark and rainy night. What was the weather at the time of the first shot?

Mr. STONE. Reports varied as far as illumination, from clear with moon and stars shining to cloudy, but our investigation indicated that weather was not a factor in this incident.

Senator THOMPSON. Was there any evidence that Lieutenant Colonel Daly knew of the possibility that there could be friendly troops in the area prior to the incident?

Mr. STONE. Yes, sir, there was.

Senator THOMPSON. Would you elaborate on that?

Mr. STONE. Yes. In the initial fragmentary order that was received by all the squadron commanders of the 3rd Armored Cavalry Regiment, they were alerted that there was the possibility the 1st Armored Division was to their right or southern flank.

Senator THOMPSON. And who alerted them to that?

Mr. STONE. That was the 3rd Armored Cavalry Regiment Operations Officer.

Senator THOMPSON. Did Lieutenant Colonel Daly identify any of the supposed enemy vehicles as being American-made before he permitted his gunner to fire?

Mr. STONE. Yes. There were reports, according to two individuals that we interviewed during our investigations, that prior to the fatal shots being fired, Lieutenant Colonel Daly identified an American-made M548 Ammunition Carrier as an Iraqi vehicle.

Senator THOMPSON. You stated that the first investigation, which commenced within hours of the incident, was not complete or thorough. Who conducted that investigation and what was that person's rank?

Mr. STONE. His name was David Jacquot. His rank was a Captain and he was a Staff Judge Advocate that was attached to or assigned to the 3rd Armored Cavalry Regiment during the Gulf War.

Senator THOMPSON. Did Captain Jacquot cooperate with your investigation?

Mr. STONE. No, sir, he did not. We contacted Captain Jacquot on two occasions and his reply to our request to be interviewed was that he felt the purpose of our investigation was for political reasons and motivations.

Senator THOMPSON. Do you believe it was appropriate to have Captain Jacquot conduct an AR 15-6 investigation which was clearly going to involve the conduct of higher-ranking officers in his command?

Mr. STIENER. No, sir, we do not feel that it should have taken place that way, and this speaks to the issue that I made in my opening remark concerning the weaknesses surrounding the AR 15-6 investigation, the area of command investigating command. We feel that the individual should have been of equal rank or higher rank than the highest officer involved in the incident, which, in this case, was Colonel Starr.

Senator THOMPSON. And, of course, you have mentioned the issue of whether or not the engineers returned fire. Was Captain Jacquot remiss in not examining the weapons of the engineers to see if they had been fired?

Mr. STIENER. Definitely. It is a basic principle of investigations. You have a factual situation where there was disagreement. You should aggressively pursue that to its logical end. He should have asked the question, checked the weapons to determine if they had fired.

Senator THOMPSON. In your opening statement, you mentioned the discovery of a tape of this incident. How did you discover this tape?

Mr. STIENER. Randy, why don't you take it?

Mr. STONE. While we were at Fort Bliss, TX, conducting our investigation, we were advised by one soldier that he was aware of another soldier's possession of an audiotape. We then contacted that individual and received that tape from him.

Senator THOMPSON. Is this the first time the tape had been discovered by any investigators, is that correct?

Mr. STONE. Yes, sir, it was. At that same time, during our inquiry at Fort Bliss, we were also made aware that there were approximately two other tapes that had been made, but we were unable to obtain them.

Senator THOMPSON. As best you could determine, as far as the investigation by Captain Jacquot is concerned, did he actually ever interview anybody as such or did he just take statements?

Mr. STONE. Basically, it appears that on the scene, Captain Jacquot issued witness statement forms to many of the participants who were involved, but there was no questioning or probing into of any depth.

Senator THOMPSON. Was the tape something that should have been discovered in a thorough Army investigation?

Mr. STONE. Yes, sir, I believe so, based on the fact that we have learned that during training exercises, the radio transmissions within the maneuvering room inside these vehicles, the M1 tank and the Bradley, they were used to record for training purposes.

Senator THOMPSON. Perhaps, Mr. Stiener, you might answer this question. Do you agree with the ultimate conclusion in the AR 15-6 investigation, which found that all personnel acted reasonably and responsibly?

Mr. STIENER. No, sir, we do not. We feel that the facts and findings of those two investigators led to the logical conclusion that people should be held accountable and responsible for the events. We also feel that they avoided dealing with what we consider to be the major issue, and that is the issue of command and control.

Senator THOMPSON. How did you become aware of the Bronze Star medals that were issued to the soldiers in the 3rd ACR?

Mr. STONE. One of the soldiers that we interviewed who was attached to the 3rd Squadron and was involved in dismounting his vehicle to go down to render aid to the engineers indicated to us that he had received an Army commendation medal for his actions of that evening. He then advised us that once he was presented with the award, that he was embarrassed upon his receipt, based on the fact it was as a result of this fratricide incident.

Senator THOMPSON. Did your investigation reveal as to whether or not these soldiers who received the Bronze Stars were engaged in any combat actions throughout the Persian Gulf War other than this particular incident?

Mr. STONE. No, sir.

Senator THOMPSON. They did not engage in any other combat?

Mr. STONE. No, sir.

Senator THOMPSON. Did you find misleading statements or misrepresentations in any of the documents submitted in support for these awards for heroism?

Mr. STONE. Yes, sir. We found that the award language, especially the citations, indicated that the soldiers were cited for being

in conflict with an armed enemy and that they were involved in taking enemy prisoner personnel.

Senator THOMPSON. Were Colonel Starr and Lieutenant Colonel Daly involved in some of these misrepresentations?

Mr. STONE. Yes, sir, they were.

Senator THOMPSON. When did the Army finally revoke the medals?

Ms. CART. The awards for valor were revoked on April 18 of this year, which was actually the day before our report on the incident was released. Immediately after that, the awards were then re-issued for non-valorous achievement. Those awards were revoked on May 5, 1995, by the Secretary of the Army, pending further review.

Senator THOMPSON. The day before we released the report, as you recall, we informed the Army and they were very much aware that we were getting ready to release your GAO report, and it was at that time that they chose to revoke their awards?

Ms. CART. Yes, sir.

Senator THOMPSON. But did they tell us that they were simultaneously reissuing the awards without the "V" device?

Ms. CART. No, sir, and actually, until we received the response from the Army this week, we had had no official notification of their actions.

Senator THOMPSON. What I would like from the GAO is a letter¹ submitted for the record setting forth your recommendations as to how these kinds of investigations should be conducted in the future. Is that agreeable with you?

Mr. STIENER. Yes, sir.

Senator THOMPSON. We appreciate that very much. If there are no other questions, we will thank you for your testimony. You have made a very substantial contribution to this investigation and to the effort to find out what went on here. We sincerely appreciate your diligence in this matter. Thank you very much.

Our next witnesses will be Bo Friesen and Kevin Wessels. Both Mr. Friesen and Mr. Wessels are former Army officers who, along with their units, were involved in this friendly fire incident. Mr. Friesen is a former Army Captain and was the Commanding Officer of I Troop, 3rd Squadron, 3rd Armored Cavalry Regiment when this incident occurred. Mr. Wessels, a former Army Lieutenant, was the Executive Officer of C Company, 54th Engineering Battalion, 1st Armored Division, at the time of this incident.

Gentlemen, we swear in all of our witnesses who appear before this Subcommittee and I would ask you both to rise and raise your right hands.

Do you solemnly swear that the testimony you give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. WESSELS. I do.

Mr. FRIESEN. I do.

Senator THOMPSON. Thank you very much.

I will ask Mr. Wessels to go first. Do you have a statement to make, Mr. Wessels?

¹ The document referred to was marked Exhibit 40, and can be found on page 198.

TESTIMONY OF KEVIN J. WESSELS¹

Mr. WESSELS. Yes, Mr. Chairman, I do. My name is Kevin Wessels, and during Operation Desert Storm, I was a First Lieutenant attached to the 54th Engineering Battalion, United States Army. We were responsible for moving ammunition and other logistics support for the Second Brigade as it advanced in the war. I also had the privilege of commanding Corporal Lance Fielder and three other enlisted men during the devastating attack on our position that is the subject of this hearing.

On February 26, 1991, our M548 ammunition carrier broke down. While awaiting recovery, we pulled over to the side of a main thoroughfare known as a "log line" or logistics line. Although this seemed to be a relatively safe position, since American trucks were continually passing within 50 feet of us most of the night, I still posted a two-man guard. In the early hours of the morning, those guards recognized American vehicles, including several Bradleys and a tank. To this day, I will never understand why, if we took the time to not only watch and listen for their vehicles, they were unable to look at us more carefully before they started firing.

At approximately 3 a.m. in the morning on February 27, 1991, I was awakened by the sound of gunfire and one of my men screaming, "Sir, the Americans are shooting at us!" Within seconds, another round of fire ripped through our vehicles as we scrambled for cover. It was at this point that one of my men, Sergeant James Napier, was hit in the leg as he tried to escape. A trailer loaded with ammunition started to burn, with some of the rounds detonating as the fire spread.

Specialist Craig Walker ran to Sergeant Napier and carried him to safety near Corporal Lance Fielder and Specialist Robert Driben. While Corporal Fielder, Specialist Walker, and Specialist Driben attended to the wounds sustained by Sergeant Napier, I ran back to my Humvee, got on my radio, and announced on several different command frequencies that we were being fired upon by our own troops.

When the third round of fire started, I crawled back behind the M548 ammunition carrier. When the firing stopped, I ran back to the Humvee, trying desperately again to reach someone over the radio who could help us. I had no luck in contacting anyone.

When the fourth round of fire began, I grabbed a flare and crawled back behind the M548 ammunition carrier. When the shooting let up, I fired the flare. I hoped that it was a parachute flare which would illuminate the area long enough to be identified as Americans. It turned out to be a green star cluster and extinguished quickly.

Later on, I would be criticized for using a daytime friendly forces recognition signal, a green cluster, instead of a nighttime signal or a white cluster. Not only had I never been briefed on these signals, I did not even have a white cluster. The truth is, I was trying to light up the sky in an attempt to save my men, and I was too busy being fired upon by other Americans to take inventory of my pyrotechnic devices.

¹ The prepared statement of Mr. Wessels appears on page 75.

Soon, a fifth blast of fire came from the Americans. When the barrage stopped, I saw American armored vehicles moving over to our side. I quickly recognized that we would no longer have the protection of the M548 ammunition carrier but would be caught in a deadly crossfire if the American unit maneuvering to our side began firing. I became acutely aware of the fact that if I did not do something quickly, all five of us would surely be killed.

At this point, I turned on my red-lensed flashlight, stood with my hands over my head, and walked slowly forward towards the nearest Bradley armored vehicle. The gunner of the Bradley, who had his 50-caliber machine gun pointed straight at my chest said, "You better be an American!" I will spare you my initial response and simply say that he was shocked when he found out that I actually was.

A captain from the 3rd Armored Cavalry Regiment, or 3rd ACR, whose guns had been firing at us walked back with me to where my men were located. It was then that I learned that one of my finest soldiers, Corporal Lance Fielder, had been hit twice during the last round of fire. I was deeply saddened by the realization that Lance Fielder had been killed. It was a tragedy that never should have happened, Mr. Chairman.

I immediately called our brigade Medivac. I could only get one helicopter, and, in accordance with Army doctrine, they would not carry a wounded soldier and a dead soldier in the same helicopter. The 3rd ACR captain called for his helicopter and said that they would take Sergeant Napier and Corporal Fielder together.

I filled out a Casualty Feeder Report and stated that Corporal Fielder had been killed by friendly fire. The helicopter apparently blew the first report away, so I filled out another one, again stating that the death was a result of friendly fire. I was shocked to learn that Corporal Fielder's parents were later told that he was killed by Iraqi forces.

Within a few hours, an AR 15-6 investigation into this incident began. Captain David Jacquot was assigned the task of conducting the investigation. He did not ask me any questions. He simply requested that I write a statement about the incident. That was the only time that I have been permitted to make a full statement about this incident until this Senate hearing.

The remainder of the Army's investigation was very frustrating, as I felt I was being questioned in such a way as to ensure certain specific answers. For example, several months after the incident, I was interviewed over the phone by Brigadier General Nicholas Halley. He asked me different questions about colors of flares and lights that are used as friendly forces recognition signals. He did not seem interested at all in the discrepancies and conflicting statements that I attempted to point out that occurred during the AR 15-6 investigation. He just said, "Thanks very much," and he hung up. Again, I feel that General Halley was looking for certain specific answers that would relieve the 3rd ACR of their numerous blunders.

Upon reading the various reports of this incident, I was astounded to learn that, in order to justify their actions, members of the 3rd ACR claimed that my men returned fire. Let me make one point very clear. Neither I, nor any of my men, ever fired a single

shot. Why would we? We knew that they were Americans the entire time. At no time did Captain Jacquot or anyone even check one of our weapons to determine if they had been fired. If they had, they would have found that our weapons were full of dust.

In late 1991 and again in early 1992, I was interviewed during an Army Inspector General investigation that I was told was being conducted to determine the facts and circumstances surrounding the reporting of the death of Corporal Fielder. However, by April 20, 1992, the focus of the investigation had shifted to, and I quote, "allegations of improprieties related to command and control issues within the 1st Armored Division and the 54th Engineering Battalion." In other words, my actions were now being investigated.

Two weeks later, I was slapped with a letter of admonishment from General Edwin Burba. He sent this to me in the mail. General Burba was not even in my chain of command. Unlike others who received letters of reprimand, I was given no opportunity to respond. This letter was devastating to me. It stated that I may have indirectly contributed to the death of Lance Fielder. Since the day I received that letter, those words have been etched in my mind.

I ask each of you to think how such a letter would affect you, after seeing your men, after seeing your equipment torn apart by gunfire from what you knew to be other American forces. The actions I took that night were with one single thought in mind: Do whatever it takes to save the lives of my men from the awesome amount of American firepower.

As I sit here today, I can assure this panel, the Army, and, most importantly, the parents of Lance Fielder, that I did everything—everything in my power to protect my men and stop the attack. I will regret for the rest of my life that I was unsuccessful in that effort.

Thank you for the opportunity to appear before you this morning.

Senator THOMPSON. Thank you, Mr. Wessels.

Mr. Friesen?

TESTIMONY OF BO H. FRIESEN¹

Mr. FRIESEN. Thank you, Mr. Chairman. I also appreciate the opportunity to appear before the Subcommittee here today and am very grateful for the fact that the Subcommittee is reviewing this tragic incident. Quite simply, it never should have happened.

I will give you my viewpoint of what happened that night. I was a member of the 3rd Armored Cavalry Regiment, or 3rd ACR, and I commanded nine M1A1 Abrams tanks and 12 Bradley fighting vehicles. It was my tank and two of my Bradleys that first made contact with the engineers on the airfield.

It is very important to state that I deeply, deeply regret the events of that night, and like Kevin Wessels, I will have to live with this memory for the rest of my life. But it is also important to note that, given the situation and the information with which I was provided by my commanders, that I also acted with extreme caution. Let me explain.

¹ The prepared statement of Mr. Friesen appears on page 76

Our objective that night was to seize the Umm Hajul airfield. My squadron commander, Lieutenant Colonel Daly, briefed me that our unit would be the most forward one in the area. Furthermore, I was told that the airfield we were assaulting would be assaulted by a heavily dug-in battalion of Iraqi forces. Lieutenant Colonel Daly never mentioned the possibility of any friendly forces in the area.

Lieutenant Colonel Daly directed the use of a diamond assault formation. The significance of this formation is that there is absolutely no reconnaissance whatsoever forward. It places the maximum tank firepower in the front, but is pretty much blind. The sole purpose of this formation is to destroy confirmed enemy positions, not suspected enemy positions. This clearly indicated to me that we would encounter no friendly forces at any time during our operation.

Lieutenant Colonel Daly sent the squadron on a blind attack into an uncertain area. This was a clear violation of basic tactical principles. The use of this type of formation alone confirmed in my mind that we would likely encounter heavy resistance by Iraqi forces on the airfield.

As we approached the airfield, my troop discovered what I now know to be Lieutenant Wessels' unit. Based on intelligence briefings I had received, I assumed that he and his men were Iraqi soldiers. Initially, after obtaining Lieutenant Colonel Daly's permission, I ordered that a few warning shots be fired. After this, it is my firm belief that we began receiving return fire from the suspected enemy force. As we just heard from Kevin, this was not the case. All I can offer to him and his men is that we truly believed this to be so.

We then returned fire in order to suppress what we thought were enemy forces. After we had expended what I believed to be the maximum amount of necessary force, I ordered a cease fire. The soldiers, who at this time we still thought to be Iraqis, no longer posed a threat. They were silent. We were heavily armed and could easily have destroyed the small group in a matter of seconds. They had no place to escape. We contained them on flat terrain and could easily have captured them if they had tried to escape. Even assuming that they were Iraqis, shooting them at this time would have been completely unjustified.

At this point, confusion broke out as Lieutenant Colonel Daly's command group, which included three Bradleys and a number of smaller vehicles, pulled up unannounced on my left. Some of my men believed his vehicles were Iraqi and nearly fired on them. Another disaster was narrowly averted.

Later, in a similar display of poor command judgment, Lieutenant Colonel Daly allowed two of his men to leave his Bradley and cross immediately in front of our guns. One of his soldiers soon became lost and wandered over to another Bradley. For that brilliant display of military navigation, I believe he received the Bronze Star with "V" device. We had no idea where these men came from and we initially thought they were Iraqis. Once again, we came within a razor's edge of shooting them.

As I continued to monitor the situation, I could clearly see through my thermal sights as one soldier in Kevin's unit assisted

a fellow soldier to a safer location. Neither soldier was carrying a weapon. I heard Lieutenant Colonel Daly's voice come over the radio screaming, "They're getting away! They're getting away!" and a burst of machine gun fire erupted from my left, striking the soldier who had been helping his comrade. A few moments later, a second burst struck him again. I later learned that this soldier was Corporal Fielder. I was absolutely furious. It became obvious that Lieutenant Colonel Daly had disregarded and overridden my cease fire. If he had not, Corporal Fielder would still be alive today.

The mood within my troop got ugly. My soldiers were very angry about what had just happened. Several threats against Lieutenant Colonel Daly came across the radio net and I had to intervene to restore order.

To make matters even worse, Lieutenant Colonel Daly came up to me about an hour after the shooting and said, "We have to keep this under our hat." His comments were overheard by some of my troops, and I can only imagine the signal this sent to them. Several days later, I discovered that my fellow officers were under the false impression that we had destroyed an Iraqi force on the night this incident occurred. When I tried to correct this misinformation, Lieutenant Colonel Daly took me aside and once again advised me to remain silent about what had transpired.

In reviewing the results of the subsequent AR 15-6 investigation, I learned that an officer assigned to the 3rd ACR stated that he had attempted to receive authorization to cross the Corps boundary in order to attack the Umm Hajul airfield. This was denied by the 1st Armored Division because they had American supply trains in the area. This is exactly what Lieutenant Wessels and his unit were doing there.

The officer stated that he briefed the 3rd ACR Executive Officer of this fact, who then passed it on to Colonel Starr, Lieutenant Colonel Daly's immediate commander. If Colonel Starr ordered the attack on that airfield with the knowledge of American supply trains in the area, then Colonel Starr is as directly responsible for Corporal Fielder's death as is Lieutenant Colonel Daly. I believe this to be exactly the case.

It is crystal clear that Colonel Starr and Lieutenant Colonel Daly were aware of both the Corps boundary and the possibility of friendly units in the area. Incredibly, they ordered and conducted a violent assault into the Umm Hajul area. I feel these were criminally negligent acts.

In sitting next to Kevin today and hearing him talk about his letter of admonition and the obvious effect it has had on his life, I feel compelled to tell this panel that, as an eyewitness to the bravery of his actions and the leadership he displayed, the letter is totally unjustified. The Army should withdraw the letter and apologize to Kevin.

To the family of Lance Fielder and to Kevin and the men under his command, I can never express my true sorrow enough for the events that took place that night. I learned early in my career as a cadet at West Point that integrity and leadership are the elements most vital to commanding men in combat. This forum and this investigation, looking into the true causes of this tragic event, can go a long way to restoring accountability and the integrity that

must exist in our armed forces. You have my sincerest thanks for that effort.

Senator THOMPSON. Thank you, Mr. Friesen.

We have the unusual situation here of having a young man who was fired upon and a young man who was part of the group who was doing the firing, but you both share a commonality in that you were put in circumstances that were not under your control. I commend both of you for being here today and for your testimony.

Mr. Wessels, how did you know that the vehicles approaching you were American?

Mr. WESSELS. Mr. Chairman, we had two guards on rotation the entire night, and this way, they could speak to each other and kind of point things out. They both heard the approaching American vehicles first. The M1 Abrams tank has a very distinctive sound. But in order to confirm this sighting, they also used their night vision goggles. Again, they identified the vehicle as an American, not only by the silhouette it makes, but they could also see the coalition markings on the side and they thought that this was a recovery vehicle that was coming to assist us.

Senator THOMPSON. Mr. Wessels, you were admonished, in part, because the Army concluded that your men were not wearing the Kevlar helmets or the flak jackets that they say would have helped you be recognized as Americans. Were your men wearing this equipment?

Mr. WESSELS. Yes, Mr. Chairman. The two people that were on guard at all times had their full combat gear, to include their Kevlar helmet and flak jackets. The rest of the men that were sleeping kept on their complete combat gear except for their Kevlar helmets, but they were not able to be seen by the opposing forces at that time because they were down in their vehicles.

Also, the big question that I had about this whole thing is if they were able to see such minute detail such as flak vests and Kevlar helmets, why were they not able to recognize American vehicles or the coalition markings first?

Senator THOMPSON. As you have heard testimony earlier this morning, apparently they did recognize American vehicles, at least Lieutenant Colonel Daly and some of the others. Mr. Friesen, were you ever made aware of the appropriate anti-fratricide signals to be used during the Persian Gulf War?

Mr. FRIESEN. Mr. Chairman, the only symbol that we were familiar with was the inverted "V" painted in black paint on the side of the vehicles, which, unfortunately, under thermals, is invisible.

Senator THOMPSON. So at night, it is virtually useless, I assume?

Mr. FRIESEN. Yes, Mr. Chairman, it is.

Senator THOMPSON. Mr. Wessels, what about you?

Mr. WESSELS. I was not aware of any flares or anything like that being used as anti-fratricide signals. I later learned and was criticized for the fact that I fired a green star cluster, which is supposedly a daytime friendly forces signal, as opposed to a white star cluster, which was a nighttime recognition signal. But even if I had known about these signals, none of us were issued anything like that, so I could not have used them even if I had them in my possession.

Senator THOMPSON. Mr. Wessels, can you describe how your men performed once the assault began?

Mr. WESSELS. I think that the best way to describe them is that they performed heroically, Mr. Chairman. I do not think that they have received enough credit for what they have done. In my statement, I said specifically how Corporal Walker carried Sergeant Napier to safety. He carried him under the fire from the 3rd ACR.

In addition to that, they were conducting first aid on a soldier who not only had gunshot wounds, but shrapnel wounds. Because Corporal Fielder was able to take such command of the situation, he directed Specialist Driben to continually go back to the Humvee and pick up medical supplies while he and Specialist Walker attended to Sergeant Napier, then eventually sent Specialist Walker to go dig a hasty defensive position to hide everyone in the sand and to protect them from the fire.

If I had to supervise everything that they were doing, I would not have been able to do what I needed to do to try to stop the fire.

Senator THOMPSON. Mr. Friesen, you have indicated you did not know that anyone had identified any of the vehicles as American or possibly American vehicles, is that correct?

Mr. FRIESEN. That is correct, sir.

Senator THOMPSON. Had you been told that at that time you were below the boundary line?

Mr. FRIESEN. No, sir. I only had the most remote idea that VII Corps was 20, 30, 40, maybe 100 miles to our south, but a boundary line was never mentioned.

Senator THOMPSON. Had you been told that there was a possibility of American troops in that area?

Mr. FRIESEN. No, sir. I had been told we would be operating seven kilometers forward of any American positions.

Senator THOMPSON. And have you since learned that all that information was apparently available to some of your superiors that night?

Mr. FRIESEN. Yes, sir, sadly enough so.

Senator THOMPSON. Mr. Friesen, after you ordered the cease fire from the initial burst that you described, did you see the opposing force, as you thought it to be at that time, take any hostile or aggressive action?

Mr. FRIESEN. No, sir. They took no actions which could even remotely be construed as hostile.

Senator THOMPSON. Did you feel at that time that the situation was totally under control?

Mr. FRIESEN. Yes, sir.

Senator THOMPSON. Could you have eliminated the perceived enemy very expeditiously if you had chosen to do?

Mr. FRIESEN. Yes, sir.

Senator THOMPSON. At any time?

Mr. FRIESEN. Yes, sir. We used the lightest weapons at our disposal. The heavy weapons would have ended everything in a couple of seconds.

Senator THOMPSON. During the cease fire, was there any indication that, in fact, one or more of the people under surveillance there were trying to give up?

Mr. FRIESEN. They had done exactly what I would expect them to do, Mr. Chairman, which is to lay down and keep flat. It was our intent to give them a couple of minutes to surrender, but there was absolutely no display of aggressive action from them.

Senator THOMPSON. Mr. Friesen, what justification did Lieutenant Colonel Daly have for breaking your cease fire?

Mr. FRIESEN. In my mind, I can think of no justification.

Senator THOMPSON. Would you describe exactly how it happened that Colonel Daly arrived on the scene? We have the positions on the chart there when the fatal shots were fired. The red letter "B" at the top there indicates the position of Lieutenant Colonel Daly, I believe, before he came to approximate your position there, and the broken line there indicates his path there down to where you were. Does that comport generally with your recollection?

Mr. FRIESEN. Yes, sir.

Senator THOMPSON. So you had the situation under control. You had ordered a cease fire. Then describe Colonel Daly and the troops under him, their movement and the actions after that.

Mr. FRIESEN. Sir, they were slightly east of us. We had been progressing eastward to attack and then swung south to hit the airfield. When he came back around, he approached from the east, which was from the direction of the enemy. This caused a mild amount of panic in some of my rear platoons, because one of the vehicles closely resembled a Soviet-built vehicle that the Iraqis had.

Senator THOMPSON. How close did you come actually to firing on Lieutenant Colonel Daly because he had not identified himself or communicated with you in any way that he was coming, is that correct?

Mr. FRIESEN. Yes, sir, we came pretty close. One of my lieutenants was sharp enough to recognize the minute difference between the vehicle and quickly announced over the general troop frequency that we did have friendlies approaching on our left and to be very careful not to shoot anybody there.

Senator THOMPSON. So continue on with what happened, as you recall it.

Mr. FRIESEN. We were still waiting for what I perceived to be an Iraqi force to surrender. I firmly believed in my mind that they would, given just a few more minutes of opportunity.

Senator THOMPSON. They had nowhere to go?

Mr. FRIESEN. No, sir, they did not. I then saw two individuals dashing across my front towards one of my Bradley fighting vehicles. We immediately put the cross-hairs on them for the machine gun, established the range for the target with the laser, and were observing them, ready to shoot, finger on the trigger, when I noticed one of them was wearing a Kevlar [helmet]. I have to say, they were quite a bit closer than the engineers so it was more easily visible.

At that point, I asked all of my subordinates who had put people on the ground because I had specifically ordered them to keep everybody on their vehicles. All replies came back negative, and then one of my scout sections came back with the report that they were from Colonel Daly's vehicle.

Senator THOMPSON. So when Colonel Daly arrived and stopped, these two individuals came from his Bradley vehicle?

Mr. FRIESEN. Yes, sir.

Senator THOMPSON. Had anybody told you—you were in command of the I Troop at that time, right? Had anybody told you that individuals would be getting out of any vehicles there or approaching you in any way?

Mr. FRIESEN. No, sir. I was under the firm belief that any dismounted individuals were enemy.

Senator THOMPSON. So again, you thought they were the enemy and almost shot them?

Mr. FRIESEN. Yes, sir.

Senator THOMPSON. And I take it, as I recall, one of those two individuals, one was following the other one and the one behind actually got lost and had to get into one of your vehicles, is that correct?

Mr. FRIESEN. Yes, sir, that is correct.

Senator THOMPSON. And he is one of the ones who received a medal for valor, is that correct?

Mr. FRIESEN. Yes, sir, a Bronze Star with "V" device.

Senator THOMPSON. For that action, apparently?

Mr. FRIESEN. Yes.

Senator THOMPSON. Mr. Wessels, in your mind, from the time the first shots were fired until the last shots ended, approximately how long did the attack last?

Mr. WESSELS. Probably up to 10 minutes or so, but it did seem to last forever.

Senator THOMPSON. Mr. Friesen, from your point of view, how long do you believe—

Mr. FRIESEN. Sir, there was a tremendous time dilation under the stressful situation. In my mind, it was well over an hour. However, thinking back on that logically, it could not have lasted more than 5 to 10 minutes.

Senator THOMPSON. Mr. Wessels, shortly after the attack, you indicated Lieutenant Colonel Daly approached you and you had a conversation. I would like for you to recount that in as much detail as you can as to the substance of that conversation.

Mr. WESSELS. Mr. Chairman, I went over to where Corporal Fielder was killed to see if there was anything in the area. I just kind of pushed some sand away and I noticed that he had a cross and a crucifix on a chain. As I was picking that up to bring it back, Colonel Daly stopped me and asked if I had gone to West Point or if I had gone through an ROTC program at college. I did not understand what he was talking about. I said, well, I went through the ROTC program, sir. And then he asked me, "Well, in your ROTC program, did they ever teach you about the fog of war?"

Senator THOMPSON. The fog of war?

Mr. WESSELS. The fog of war, yes, Mr. Chairman. Again, I had no response for what he had said and I said, well, of course they did, sir. I felt the whole conversation was so bizarre, like he was trying to say that it was not his fault and maybe I had put my men in danger or something similar to that.

Senator THOMPSON. Mr. Friesen, as a result of your actions that night, you received a letter of reprimand, is that correct?

Mr. FRIESEN. Yes, sir. I received that letter 1 day after my rebuttal period expired, but I sent a response anyway. The Army just let it go for several months until the day before I appeared on "Good Morning America" to talk about this, and it was withdrawn in a matter of hours.

Senator THOMPSON. So the day before you appeared?

Mr. FRIESEN. Yes, sir.

Senator THOMPSON. The day before these events seems to be a popular time for the Army to take action, does it not?

Mr. FRIESEN. Yes, sir, it seems that way.

Senator THOMPSON. All right. What do you think about that letter and what did you do about it?

Mr. FRIESEN. Well, sir, I feel that the letter was totally unjustified. Even though I feel a tremendous amount of shame over what happened and I wish there was something that I could have done to prevent it, I did exercise an even greater amount of care and restraint than a battlefield commander normally would. Under the circumstances I was in and the lack of information that my superiors provided me with, I felt I acted properly.

Senator THOMPSON. And what action was taken?

Mr. FRIESEN. The letter was withdrawn, sir.

Senator THOMPSON. All right, sir.

Mr. Wessels, for your actions that night, the Army sent you a letter of admonishment, is that correct?

Mr. WESSELS. Yes, Mr. Chairman.

Senator THOMPSON. Obviously, it is not justified. What do you think about it and what did you do about it?

Mr. WESSELS. It came in the mail in my unit while I was in Germany. I went to pick it up and I opened it to read it and it said specifically that I was being charged for contributing to the death of Lance Fielder. I did not know what to say about it. I was completely shocked.

I went immediately to my commander. We both reviewed the letter. It said nothing about how I could respond to the letter or if I felt it were appropriate and how I could do a rebuttal. We went through my immediate chain of command, as much as we could, but they found out that there was nothing we could do. Because there was no way for me to rebut it, we assumed that the Army was saying, you are guilty and we are not going to let you say anything otherwise and you must accept this.

Senator THOMPSON. What was going through your mind as you approached the American forces with your hands over your head, after just receiving these bursts of fire and seeing one of your comrades wounded and another of your comrades killed? Did you fully expect that you would be immediately identified as American?

Mr. WESSELS. I was hoping, Mr. Chairman, because I had the red-lensed flashlight, that that would be enough for them to at least say, hey, something is going wrong here. This person has their hands over their head. They are not going to cause any threat to us. But as soon as I noticed that they had the 50-caliber machine gun pointed at me, I was not sure if I was going to make my destination.

Senator THOMPSON. Did you keep walking?

Mr. WESSELS. Yes, I did, as slowly as I could.

Senator THOMPSON. Mr. Wessels, I can only say that your receiving an admonishment under those circumstances is an absolute disgrace. We cannot do anything about what has happened in the past or these people who were wounded and killed, but I believe we can probably have some influence on that, and I can assure you we will do everything in the world to make sure that that disgraceful action by the Army is rectified. If anybody deserves a medal from what happened out there that night, I think you do from the action that you took.

Let me ask this, Mr. Wessels: Do you think the Army's investigation into this incident was fair or thorough?

Mr. WESSELS. No, sir, not at all. I had an opportunity to view some of the AR 15-6 statements, and that is why when Brigadier General Halley called me and asked me if I had any questions, I brought out as many conflicts that I had found with the statements and found with the findings, to point those out for them to investigate those further. But, as I said, he completely disregarded that and then just hung up on me.

Senator THOMPSON. Were you ever interviewed as such by the original AR 15-6 investigating officer?

Mr. WESSELS. No, Mr. Chairman. They just brought the blank AR 15-6 statements down and said, fill this out to the best of your ability and then turn them back in. All the other subsequent interviews were just done all over the phone, with me in Germany and the investigating team in the United States.

Senator THOMPSON. Did you ever get the impression that anybody was remotely interested in what actually occurred out there that night?

Mr. WESSELS. I got the feeling that the only interest they had was that they wanted me to give certain specific answers, such as I was not aware of the anti-fratricide devices and so forth, so they could—

Senator THOMPSON. In other words, things that would incriminate yourself in some way, perhaps?

Mr. WESSELS. Exactly.

Senator THOMPSON. When did you really have the opportunity to tell your story for the first time?

Mr. WESSELS. Aside from my family, they were really the only ones who would listen to me and believed me. Finally, when I was approached by Eric Thorson of the Subcommittee, it was the first time I ever felt that anyone in the United States was on my side.

Senator THOMPSON. Mr. Friesen, what is your opinion of the Army's investigation?

Mr. FRIESEN. I have to agree with Mr. Wessels, sir. I feel that these investigations already had a predetermined outcome and the outcome was to protect and absolve the leaders responsible for this negligent act. The investigation simply gathered evidence to support this foregone conclusion and just ignored all the glaring inconsistencies that refuted it.

At each subsequent investigation, the stakes were a little higher. They sacrificed a few lower-level individuals, such as Lieutenant Wessels and myself. I believe that was an attempt to placate people in authority who still had an interest in the truth coming out, but

the entire series of investigations, to me, had the appearance of a whitewash or a coverup.

Senator THOMPSON. Gentlemen, thank you very much. Is there anything else you would like to say? Thank you very much for coming here. You have been very helpful. I cannot tell you how much I appreciate your willingness to come and relate the facts, especially you, Mr. Friesen. I know this is a painful ordeal. Mr. Wessels, obviously what you went through is a very painful ordeal, but it is young men and women like you who make this country great, make our Army great, make our military forces great, and give us hope for the future. You just continue to have faith in the system and do the right thing and I think you will see that the right thing ultimately will be done in response to your actions.

Thank you very much for being here and God bless you.

Mr. WESSELS. Thank you.

Mr. FRIESEN. Thank you, sir.

Senator THOMPSON. Our next witnesses will be Deborah Shelton and Ronald Fielder, the parents of Army Sergeant Douglas Lance Fielder, who was killed in this incident. Ms. Shelton and Mr. Fielder, first of all, I want to convey our deepest sympathy for the loss that you have suffered. We have had an opportunity to discuss this several times in the past, and I know that this is perhaps somewhat the end of a long road for you. I want to commend you for your determination and your persistence for this search for the truth and what happened with regard to this tragedy.

As you know, we swear in all witnesses before this Subcommittee, so I would now ask you to both rise and raise your right hand.

Do you swear that the testimony you give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. SHELTON. I do.

Mr. FIELDER. I do.

Senator THOMPSON. Thank you.

Ms. Shelton, do you have a statement to make?

TESTIMONY OF DEBORAH SHELTON AND RONALD FIELDER ¹

Ms. SHELTON. Yes, sir, I do. Good morning, Mr. Chairman. I extend to you my appreciation for the opportunity to speak before your Subcommittee today. Every member of my family has asked me to offer you a heartfelt thanks for your support and service to us. Our decision to accept your invitation was, in part, based upon one simple principle that we believe is vital to us all. Liberties wane, while we in silence or with other things to do, ponder what we value more than the liberty to speak.

I consider your encouragement to provide testimony here an act of good faith in demonstrating the importance of a Government willing to serve all people and ideas of merit. Among the traditional American liberties and ideals reside honesty, integrity, and justice. These are well-proven tools for seeking truth. I ask you to apply them with skill today, not to understand my truth but to find your own during this inquiry.

¹ The combined prepared statement of Ms. Shelton and Mr. Fielder appears on page 78.

Our son, Sergeant D. Lance Fielder, was killed in action by friendly fire while serving as a member of the United States Army during Operation Desert Storm. From the very moment of his death, the facts surrounding this tragedy were known accurately and in detail to all involved military personnel.

However, what I have learned since Lance's death is that any truth related to the matter has been suppressed. That action was adopted by consensus and endorsed by segments within the Army officer corps, in accordance with an agreed upon plan.

The plan was simple. It contained only three parts. First, lie about how Sergeant Lance Fielder died. Second, enhance the basic lie with arrogant bravado, claiming the participants in this action performed heroic feats. And finally, use the lie for personal gain by awarding medals for distinguished service under fire to conspirators and/or any participants.

On Thursday, February 28, 1991, at 3 p.m., two members of the Army's notification team came to each of our homes simultaneously. They informed us that Lance had been killed while in combat with the Iraqis on February 26, 1991. On the following Saturday, March 2, 1991, we each received a Mailgram from the Army that read: "This Mailgram is to confirm to you that your son, Specialist Douglas Lance Fielder, died in Iraq on 26 February 1991, as the result of massive chest trauma, due to multiple gunshot wounds received while engaging the enemy."

We buried Lance on Friday, March 8, 1991. I remember standing at the cemetery where we laid him to rest, thinking about my son and the others buried in that place. I thought about how we try to honor our fallen soldiers and how small a piece of ground they each receive in death. At that moment, the funeral service and the small piece of ground did not seem to be enough for Lance or for any of the others who had given their lives for their country.

Mr. FIELDER. Several weeks after Lance's funeral, I received a phone call at 3 a.m. on May 2, 1991. The voice on the other line said, "This is Specialist Mark Norwood. I served in the Army with Lance. I was a friend of his and I am in Saudi Arabia now. The Army is lying to you. Lance was killed by an American unit. I cannot talk any longer right now, but when I come home I am going to tell you everything that really happened."

The phone rang again about an hour later. This time, it was a Captain Bowser, who was Specialist Norwood's commander. Captain Bowser told me that Lance had been killed by an attacking American unit. He also told me that Lance would be receiving the Bronze Star with "V" device for valor.

During each of these calls, I was in shock. I could not think of any questions to ask, and it was difficult for me to comprehend what I was being told. American soldiers had killed my son, but my country had already told me that Iraqis had done it.

These calls, which came in the middle of the night from my son's colleagues, were the only accurate notification, if it can be called that, that Deborah and I would receive for many months. The Army did not provide us with official notification until August of 1991, more than 3 months after Lance's colleagues had called and told me the truth. Waiting 3 months to hear something from the Army would prove difficult.

Shortly after I received the calls, I telephoned Deborah and explained what I had learned from Lance's friends. Our discovery that Lance had been killed by an American force caught us completely off guard. As we would learn, to our sorrow, we were about to begin a process of grief and pain all over again. However, this time, the fact of Lance's death came to us under a painful shroud of deceit.

I recall a conversation I had with Specialist Ted Lane, the Army's official escort, that took place on March 7, 1991, the day before we buried Lance. When I asked him the circumstances of my son's death, Lane told us he did not know. During a later visit by Lane, we would find out that this was not true. Ted Lane had known all along what the truth was but he had been instructed not to discuss Lance's death with us or to volunteer any information of consequence.

For more than 3 months after we first received the horrifying news from the soldiers in Lance's unit, we heard absolutely nothing from the Army about what happened, absolutely nothing. You cannot imagine how unnerving it is to be first told your son died at the hands of the enemy, then to be told off the record that he was killed by an American, and then to be told nothing.

The Army eventually decided to give us official notification about the cause of Lance's death. The Army called and told each of us that papers would be delivered at exactly 3 p.m. on August 12, 1991. We were each given a copy of the same letter and asked to sign for it.

The letter read, in part: "Armored vehicles from another U.S. force strayed into your son's area. The soldiers in these vehicles mistakenly identified Lance's vehicle as hostile. They fired shots, wounding one of the other soldiers. The soldiers with Lance dismounted their vehicles and formed a hasty defensive position, while Lance attended to the wounded soldier. As Lance was performing first aid, a second round of machine gun fire wounded him. Lance died bravely, giving aid to a fellow soldier in the thick of battle, selflessly serving his country."

Ms. SHELTON. The delivery of the notification letter was unusual and it caught our attention immediately. We were told that the timing for the receipt of the letter was critical. This was stressed repeatedly as an important and vital element. Later, we discovered that we were only one of a large number of American families who unknowingly participated in a well-orchestrated event.

The Army had decided, at one time, on 1 day, to inform all the families whose loved ones had been killed by friendly fire of the real cause of their deaths. Thus, we were only one of many families across the country who were told at exactly 3 p.m. on August 12, 1991, that their loved one had been killed by friendly fire.

On that day, Army personnel fanned out across the country with military precision, executing the Army's notification plan by breaking the bad news to everyone in unison, months after the war had ended. The Army's tactic was to overwhelm the media with the magnitude of the event itself while masking the real significance of the unusually large number of American deaths by friendly fire.

Death by friendly fire is a very sensitive subject. It had to be handled with great skill. If the Army had informed the families of

the friendly fire victims of the cause of death in each case as soon as possible, this would have created a long string of shocking disclosures over an extended period of time and that would have harmed the Army, because as long as the story circulated in the press, reporters were going to be asking questions.

From a military standpoint, the story was big, the news was bad, and a negative impact in the media was certain. Since so many Americans were killed by other Americans in Desert Storm, the truth of the fact could not be hidden or avoided. The strategy required accepting one big negative hit in the press, then letting the story die. By speaking at the same time to each family victimized by friendly fire, the military limited to the greatest extent possible the envisioned outrage by the media. Duping the media was vital.

We knew there was nothing that would bring back our son, but at the same time, we were forced to face certain realities. How was Lance killed by Americans? Why did the U.S. Army elect to lie to our family? Did they have something to hide? If that were true, what were they attempting to conceal?

Making some notes on what was known to us at the time helped me focus on three very important issues. Why were Lance and a handful of men left alone in the desert in the first place? What really took place out there, and how could American forces attack and kill other Americans? Exactly what did happen to my son from the time he died until he came home?

It was clear to Ron and to me that no amount of agonizing would get us the truth. I knew that, for myself, there would never be an end to the anguish until our family had the complete truth. I made up my mind to look for the truth until I found it.

I began calling and meeting with people, requesting Government documents, and writing letters. Over the last 4 years, I have placed more phone calls, written more letters, filed more Freedom of Information Act requests, and contacted more people than I could possibly count for you today. The search for the truth has been a heartbreaking 4-year journey through thickets of deceit, delay, bureaucratic incompetence, and callousness.

I began to consider how many people it takes to tell a really big lie, and today, I still do not know. However, I do know it only takes one to initiate that process. It would take some time for me to learn that the dishonesty for this situation began in the desert, a long way from where I stood. Yet, it did not stop there but moved instead with remarkable swiftness to savage our family. This same dishonesty gained strength with assistance from those who, in time, would elect to lie, obstructing the truth and also to protect themselves.

I soon discovered that our quest for the truth would require patience, diligence, and common sense. Patience has never been my virtue. However, with enough determination, I thought I would make up for that shortcoming in other ways.

As this Senate Subcommittee receives testimony from the witnesses here today, there is no doubt that many lingering questions remain. For example, did the commanders involved benefit from the tragedy by sending our son home a hero? Did the risk involved in deceiving us initially about the cause of our son's death appear acceptable to the people involved? What happened to the original

battlefield paperwork and other documents that disclosed the evidence of friendly fire?

Were awards given or forced upon soldiers to keep them silent about the true facts surrounding Lance's death? Is there a direct, viable, and recognized relationship between the award for valor on the battlefield and military promotions?

Did one or more commanders involved in this friendly fire tragedy relinquish command by becoming directly involved in the attack? Did a heated argument, which verged on physical violence, occur at Colonel Starr's Command Headquarters immediately after the incident? Was Lieutenant Colonel Daly responsible for the actions of his gunner? Why does the U.S. military not provide to the families of friendly fire victims full disclosure of its investigations?

Mr. FIELDER. On January 25, 1992, Colonel Waller from the Army Inspector General's office came to Nashville to tell us about the Army investigation into the reasons why we had received erroneous notification about Lance's death. Colonel Waller began the meeting by telling us, "Well, Murphy is alive and well." The first thing that flashed into my mind was, it is too bad my son is not. We were stunned by his comment. He continued, saying, "To compound a comedy of errors, who would have ever believed that the one soldier this happened to would also be the one whose mother spent 3 weeks with him in Germany and these soldiers think she is their mother, too." We just listened.

It is our opinion that Colonel Waller began his investigation with a predetermined conclusion, which Deborah feared would lead him to ignore the most troubling aspects of the notification issue. For example, Colonel Waller seemed to discount completely the testimony of a soldier who pinned a death tag on Lance's uniform just before Lance was evacuated.

That tag, which listed the cause of Lance's death as friendly fire, was missing when Lance's body arrived at the MASH unit, where, with no information to the contrary, Lance was mistakenly listed as "Killed in Action" by Iraqi troops. The disappearance of the tag is apparently the reason why we were kept in the dark for so many months about the real cause of Lance's death.

On April 20, 1992, we received a copy of the Army Inspector General's written report on the investigation of the notification issue. The report dealt in detail with the mechanics of the notification process, the shapes and sizes of various Army forms, but it only glossed over the facts surrounding what really happened the night Lance was killed.

Our fears were confirmed. Colonel Waller's report did not remotely resemble the verbal briefing that we had previously received from him. The Inspector General's report was convoluted and misleading, but above all, it seemed to confirm Colonel Waller's predetermined conclusions.

Ms. SHELTON. Then and there, for the first time, I really began to understand the rules of engagement in the truest sense of the term. We were dismayed by the Inspector General's report but decided to press forward to find out what really happened to our son. We had concluded by this time that the Army was completely unwilling to help us discover the truth about our son's death.

For example, I called General Edwin H. Burba, who signed several reprimands that the Army gave after Lance's death, to inquire about the reprimands. A representative from General Burba's office called me back and said, "Quite frankly, madam, this is a military matter and none of your concern."

We got an appointment at Senator Sasser's office in Washington with the intent of requesting a GAO investigation into Lance's death and also the process of the entire investigation. In late April 1992, Ron and I traveled to Washington to meet with some of Senator Sasser's staff. After presenting our scenario and summary of the Inspector General's report and dealings to date with the Army, Senator Sasser asked the GAO to review the case to see if any investigation would be warranted. This was early in June of 1992.

On November 2, 1992, we found out that the GAO does, in fact, agree with us and sees clear need for an investigation. We were told that the GAO would begin its work in January of 1993. We later learned that the Army, through General Griffith, who was the IG at the time, worked behind the scenes to hold up the investigation by persuading Senator Sasser's office that he wanted to speak to us in person before the investigation started, but then never calling us. General Griffith caused the GAO to delay its work for nearly 2 more months.

When Senator Sasser was defeated, it became obvious to us we needed another Senator to take up our cause and push for the publication of the GAO report. We appreciate more than words can say the able assistance of you, Senator Thompson. You have carried our cause forward. We know that our State is truly fortunate to have you. The voters from Tennessee chose well and our families thank you from the bottom of our hearts.

On April 22, 1994, the GAO completed its investigation and we received a briefing. We learned then for the first time about the medals for valor that had been awarded to those who were involved in the attack on Lance's unit. We also learned of the GAO's conclusion that Lieutenant Colonel Daly, the commander of the unit that attacked Lance, failed to maintain adequate command and control over his squadron.

The GAO further concluded that Lieutenant Colonel Daly broke the rules of engagement that evening by firing at an unidentified target that was not firing back, and that Daly knew and failed to tell his soldiers that there might be other Americans in the area.

The GAO also discovered that in the moments just before the attack, a soldier heard Lieutenant Colonel Daly report to his commander that Daly saw an American-made vehicle but identified it as an Iraqi. These findings confirmed what we have believed for a long time. Lieutenant Colonel John Daly's negligence led directly to the death of our son.

Mr. FIELDER. I am a police sergeant in Nashville, TN. As such, I know the responsibility that goes with discharging a weapon in the line of duty. Military forces who kill the enemy are one of two things, disciplined and courageous or undisciplined and dangerous. In my opinion, the factors critical in making this distinction are leadership and the ability to command. Within the scope of American justice and law enforcement, we have specific guidelines, which include accountability to the citizens of America.

In my capacity as the entry leader on the SWAT team in Nashville, TN, if I displayed such use of force in a similar situation, went to the wrong address, violated rules of engagement, shot an unidentified person and killed him, the consequences for such actions would be swift. I can assure you there would be neither a medal nor a promotion.

I would immediately be fired, charged with either manslaughter or second degree murder, and made to stand accountable. Failure for the Metropolitan Police Department to dismiss me immediately under such circumstances would undoubtedly result in a guilty verdict against the city for negligent retention.

Some may think that Deborah and I hate the United States Army and that our hatred for that institution has been our motivation. Nothing can be further from the truth. We cannot hate the Army. If we did, it would be like hating Lance, because he loved being a part of the Army so much. There has never been a soldier who was more proud of wearing the Army uniform.

On the contrary, we care so much about the Army that we have spent the last 4 years trying to help it realize the loss of integrity displayed in this matter. As a wise man said in reference to this case, "This lie has done more harm to the military than a thousand truths would have done." Accountability and integrity in our military must be restored.

Ms. SHELTON. The GAO discovered that soldiers in Lieutenant Colonel Daly's unit received valorous awards for the attack and that those awards were based on misstatements and misrepresentations. In April 1994, the GAO briefed the Army in detail about those improper awards and lies that supported them. The Army's response to the briefing typifies everything the Army has done in this case. First, the Army sat on the information for a year and only took action 1 day before the GAO's final report was released in the spring of 1995. The timing of the Army's action cannot be a coincidence.

Second, when the Army finally rescinded the Bronze Stars with "V" devices that were awarded to the soldiers in Lieutenant Colonel Daly's unit, it simultaneously reissued Bronze Stars and Army Commendation Medals for Merit to those same soldiers. This says that although we no longer think killing your son is a valorous act, it was a meritorious one.

This is appalling. It nauseates me to know that American soldiers would accept an award for valor based on a lie. Failure to accept responsibility is cowardice, and turning that failure into a career-enhancing event is an unspeakable act. As such, it tarnishes the honor of every brave soul who ever risked death by fighting for his or her country. It also breaks the hearts of those who love America. But we know brave hearts do prevail.

I understand lies, regrets, and mistakes. Having worked to find the truth in this tragedy, I have also learned to recognize deceit for personal gain, military commanders who do not command, and those who have no honor.

If Lance were alive today, he would understand the importance of preserving the meaning and integrity of awards for heroism in combat. Until the GAO report, we did not know a requirement for the "V" device is that the recipient be engaged with the enemy.

Mr. FIELDER. Lance was an honorable person, and accepting an award he was not eligible for would have offended his sense of honor. Therefore, we now return to the Army his Bronze Star medal with "V" device and the commendation we received on his behalf. All we ask from the Army is that it correct Lance's headstone to reflect the fact that Lance did not receive this medal.

Mr. Chairman, this concludes our statement.

Senator THOMPSON. Thank you very much, Ms. Shelton, Mr. Fielder.

I have a lot of questions here, but I somehow do not even feel like they would be appropriate under the circumstances. You have covered everything. You have stated what has occurred and you have stated what you think about what has occurred. It is time you had the opportunity to express to us and to the Army and to the Nation exactly how you feel about this and exactly what happened.

You have suffered a tremendous loss. You share that with many, many other people who have suffered similar losses, children in conflict and combat. But I think you also represent all those people, all those people not only who have suffered losses in so-called friendly fire situations but those who will in the future suffer losses of loved ones, and those who have and will receive medals meritoriously for good reason.

We owe it to them to make sure that when young people do die for their country, that their parents and loved ones have some confidence in what they are told, and that when brave people receive medals, that we have confidence as a country that those medals are meritorious, as practically all of them certainly are.

So you represent a lot of people, and your diligence, your persistence in this matter is what really caused these hearings to come about and for the truth to finally come out. As you have said in our conversations from the very beginning, your purpose in this was not to get back at anybody, because the past cannot be changed, but that, hopefully, this will cause procedures to change and this will make it less likely for tragedies like this to happen again. So by this, perhaps we can spare some people and some parents in the future from what you have had to go through, and I commend you for that.

I would just ask you if you have any other thoughts. We can be somewhat informal here. We do not have to read prepared statements all the time.

Mr. Fielder, of course, is a very well-regarded member of the police force there in Nashville. You have drawn an apt analogy, I think, as to what would happen to you under similar circumstances and the kind of judgment that was exercised here.

Ms. Shelton, you have really carried the ball on this for so long. I know the burden that you have carried.

Anything additionally that either one of you would like to say concerning what happened or what you would like to see in the future would certainly be welcomed.

Ms. SHELTON. I think I said everything in my statement. Thank you, Mr. Chairman.

Senator THOMPSON. Thank you very much.

Mr. Fielder?

Mr. FIELDER. No, sir, Mr. Chairman. I have said all I can.

Senator THOMPSON. Thank you very much for your testimony.

Our next witness will be Army Lieutenant Colonel John H. Daly, Jr. Lieutenant Colonel Daly was involved in this friendly fire as the Commanding Officer of the 3rd Squadron of the 3rd Armored Cavalry Regiment.

Colonel Daly, do you swear that the testimony you will give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Lt. Col. DALY. I do, sir.

Senator THOMPSON. Thank you. Be seated. Do you have a statement to make, Colonel Daly?

**TESTIMONY OF LIEUTENANT COLONEL JOHN H. DALY, JR.,¹
UNITED STATES ARMY; ACCOMPANIED BY LIEUTENANT
COLONEL JAMES P. GERSTENLAUER, REGIONAL DEFENSE
COUNSEL, UNITED STATES ARMY TRIAL DEFENSE SERVICE**

Lt. Col. DALY. Yes, sir, I do. Thank you.

Mr. Chairman, Members of the Committee, thank you for this opportunity to present my testimony before this Committee. I hope that my comments and responses to your questions will assist you in your task of understanding what happened in the Iraqi desert 4½ years ago.

Sir, this is the first time I have been able to address Sergeant Fielder's family publicly. I want the Fielder family to know that I share their loss. From the moment of Sergeant Fielder's death, they have been in my thoughts and prayers. While confusion is normal in combat, the tragic combination of events in February 1991, resulting in the loss of their son, is not something I take lightly. I want them to know that I share their sorrow and pain. I wish they could understand how abhorrent I find that my actions and those of my subordinates have resulted in the death of a fellow soldier.

Ms. Shelton, in an anguished letter to me, expressed her hope that I shared the hell she is going through. I want her to know that I empathized with her when she wrote, "If there is a God, and I believe there is, I must trust him to make your journey for peace as difficult as mine."

She should know that my journey has also been a difficult one. No grief is as great as a mother's grief, and I do not presume to compare mine with hers. However, I do think of their anguish and pain daily. Any semblance of normalcy in my life is and will always be overshadowed by this loss.

I have both a son and a daughter and I can only barely imagine her tremendous sense of loss. I believe there is a God, and although I do not believe He is vengeful, I do believe He gave me the conscience which has reminded me every waking minute of my part in this tragedy.

I have been asked repeatedly why I have not contacted Sergeant Fielder's family to express my feelings. My lack of direct communication has been offered by some as evidence to support a malicious point of view or other broad implication, and I reject such conjecture outright.

¹ The prepared statement of Lt. Col. Daly appears on page 82.

I continue to believe that, absent some conclusive resolution of this matter, any comment by me would have been taken as a shallow attempt to deflect criticism and I have hoped to avoid such an interpretation. I hoped to contact Sergeant Fielder's family when an investigation into this accident had been concluded, but numerous investigations have never ended.

The first issue I understand this Committee is addressing is governmental accountability. I would like to address my own accountability in this case. I, long ago, accepted the responsibilities of command. When this incident occurred, I offered to step down on the spot. My commander rejected this, as he viewed I had a higher responsibility to the 1,000 men I was leading.

As I said in my letter to the Forces Command Commander, I understand that a commander is responsible for everything his unit does or fails to do. I have not attempted to escape those responsibilities. Rather, I asked then and ask now that my actions be judged in light of the facts and circumstances as we knew them at the time.

From the beginning, I have been forthcoming. I freely gave my open and honest assessments, without requesting an attorney. I provided hundreds of pages of testimony and I took responsibility for my actions. I encouraged openness from my subordinates in the belief that truth is the right policy. I have been reprimanded, and this reprimand is publicly known and known throughout the Army and throughout my profession.

Sir, much has been said about my family and that I am a son-in-law of a former Chief of Staff of the Army, and because of that I have somehow received special treatment. Nothing could be further from the truth. I had always believed that the Army would have the courage to treat members in my situation fairly and with dignity, regardless of their family or political associations.

My father-in-law has done nothing to help me or influence this matter. He has been dead 21 years and I never even met him. He died 7 years before his daughter and I were married and 3 years before I met my wife's brother. For some reason, unbeknownst to me, armchair critics have found it unusual or remarkable that a man and a woman who grew up in similar circumstances would be attracted to each other, fall in love, and marry.

It is true that I am proud of the service my family rendered to our Nation. My father was a General Officer, and he is also long dead. I make no apologies for being born into this family; none should be expected and the matter is not germane to this inquiry.

It has been said that I am in a career-enhancing duty position in the Pentagon, and this is cited as proof of special treatment. The truth is much different. I have been at the same desk for the past 3 years, performing the same level of work as a research assistant. Although selection boards have repeatedly and consistently recommended me for promotion and schooling, this promotion has been blocked by the Department of Defense with only the most cursory explanation. The truth is, I am in sort of a military purgatory. I have been told unofficially that I am an expendable political liability.

My part in the Gulf War was to command more than 1,000 soldiers in 40 tanks, 45 Bradley fighting vehicles, and six self-pro-

pelled Howitzers. When we began combat operations, everyone fully expected to encounter a determined enemy, and we anticipated a large number of casualties. I expected that I would not survive because of the demand placed upon leaders in high-risk, high-intensity cavalry operations. I had put my affairs in order and prepared my wife for this eventuality. It is not possible for me to describe this further.

Shortly before or after midnight on February 27, 1991, I was ordered to conduct a passage of lines, one of the most difficult and dangerous of all combat operations. It was dark, rainy, and cold, then dusty and clear. I was then ordered to wheel my squadron and radically change direction under the direct fire weapons of another squadron to attack and seize an airfield. Our maps were out of date, and even if they had been current, sheet after sheet would have shown little more than featureless flat desert. Command and control is an imperfect art under the best of circumstances. It is hardly a science.

I applaud the General Accounting Office for their precision in documenting an incident which lasted minutes and occurred more than 4½ years ago and for which there are no records other than those in the memories of the soldiers present.

The GAO describes the situation with a clarity which is, sadly, never characteristic of combat operations. The GAO describes the complexity of combat operations as if they were simple stage performances involving a few well-choreographed characters. The GAO presents a report which appears to be practically god-like. Sir, it is not.

We may discuss from the comfort of this room the precision of GPS coordinates and unit boundaries, but they are not written on the desert floor. There are no lighted markers or street signs, no AWACS or electronic displays of where everyone is. The Army gave Sergeant Fielder's unit a light bulb taped inside a Coke can, visible only through night vision sights, as a friendly identification device.

I was responsible for more than 1,000 men who were spread across miles of desert in combat. I did what I thought was best to protect those men with the information I had. We made a tragic error and I am eternally sorry.

Mr. Chairman, this concludes my remarks and I am prepared to answer your questions.

Senator THOMPSON. Colonel Daly, where are you presently assigned?

Lt. Col. DALY. Sir, I am assigned to the Pentagon in the Office of the Deputy Chief of Staff for Operations and Plans. I am in the Training Directorate.

Senator THOMPSON. Are you currently on a promotion list to the grade of full Colonel?

Lt. Col. DALY. Yes, sir, I am.

[Addendum at Exhibit 39(a)]

Senator THOMPSON. Was the attack on Sergeant Fielder's unit the only combat that you personally participated in during the Persian Gulf War?

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. When you were briefed in preparation for the attack on the airfield, the investigation revealed that you were

told about the possible presence of American forces in the area. Why did you not share that information with the troops under your command?

Lt. Col. DALY. Sir, I do not believe I was told that there were friendly forces in the area. My recollection—

Senator THOMPSON. The possible presence of American forces in the area.

Lt. Col. DALY. Sir, may I have a moment? Thank you.

[Pause.]

Lt. Col. DALY. Sir, I do not recall that I had a conversation about possible friendly forces. There was—I do recall the conversations about the buffer zone that was on the Regimental Command net. I do recall that that conversation went on for an extended period of time, but from my view and vantage point, that did not appear to be a conversation that was held because there were friendly forces there or that the 1st Armored Division had been where you have shown on the maps.

[Addendum at Exhibit 39(b)]

Senator THOMPSON. Let me perhaps refresh your memory a bit. I do not know if you have seen these reports, but Colonel Starr told the Army investigators that he did tell you about the possibility of American forces in the area. General Griffith told Army investigators that he informed the 3rd ACR leadership about the presence of American supply trains in the area. Do you recall either of those notifications from either of those gentlemen?

Lt. Col. DALY. Sir, I do not. The supply trains discussion and the—what was the other one? I am sorry.

Senator THOMPSON. Colonel Starr?

Lt. Col. DALY. Colonel Starr, thank you.

Senator THOMPSON. Simply the possibility of American forces in the area.

Lt. Col. DALY. No, sir. I thought I was being sent into an area that contained Iraqi forces. I thought my squadron was well to the lead of all other American forces in that area of the desert.

Senator THOMPSON. You stated that you recall discussions about the boundary line. Were you aware of the fact that Colonel Starr had tried to get a buffer zone so that you could operate south of the original boundary line?

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. Were you aware of the fact that that request was denied?

Lt. Col. DALY. Yes, sir, I am aware of that.

Senator THOMPSON. On two different occasions?

Lt. Col. DALY. From the testimony that I have seen since, I am aware of that, yes, sir.

Senator THOMPSON. What is your understanding of the significance of a boundary line such as that?

Lt. Col. DALY. Sir, a boundary line is a graphical control measure that is designed, as the GAO described earlier today, to try to keep two forces apart. However, when we were attacking into an area in combat, even though you have an objective drawn on the ground, your purpose is to go after the enemy force.

Senator THOMPSON. So you were aware of the fact that there was a boundary line and that the reason for the boundary line was to

keep the 3rd ACR from firing on the 1st Armored Division and vice versa?

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. So that, in and of itself, would indicate at least the possibility of American forces south of the boundary line? You were aware that the 1st Armored Division—

Lt. Col. DALY. Yes, sir.

Senator THOMPSON [continuing]. Were operating south of the boundary line, then?

Lt. Col. DALY. Yes, sir, south of the boundary line, but, sir, in my understanding of this, and I probably need to describe this, I understood that the 1st Armored Division, as we had all moved north, that the 1st Armored Division had turned to the right and was off in this direction, while we had come up and moved this way. I viewed that as there was a sizeable gap. I now know from the various histories that have been drawn that 1st Armored Division was out like this, but I did not know that at the time, sir.

Senator THOMPSON. But you knew that they were south of the Third?

Lt. Col. DALY. Yes, sir, well to the south.

Senator THOMPSON. And you knew that the request for the buffer zone had been made on two different occasions and that had been denied on two different occasions, is that correct?

Lt. Col. DALY. Yes, sir.

[Addendum at Exhibit 39(c)]

Senator THOMPSON. According to the GAO report, witnesses on the scene heard you tell Colonel Starr before you fired that you had seen an American-made M548 vehicle. Since you knew, apparently, that it was American-made, did you allow for the possibility that perhaps Americans were in it?

Lt. Col. DALY. Sir, I knew it was American—I thought it was American-made. If you listen to the tape, and I say if you listen—if you read the GAO report where they have described this tape, even after the fatal shots were fired, you can see that the people on the ground still thought those were enemy soldiers in front of us. All of the people on the ground thought that.

[Addendum at Exhibit 39(d)]

Senator THOMPSON. Of course, all of the people on the ground did not know what you knew, did they?

Lt. Col. DALY. No, sir, I do not think that is correct. I know that it has been characterized that everyone did not know what I knew, but my understanding was that we had briefed everyone, that we had given the operations order, that graphics had been provided, that everyone did, in fact, know.

[Addendum at Exhibit 39(e)]

Senator THOMPSON. You heard Bo Friesen testify—

Lt. Col. DALY. Yes, sir.

Senator THOMPSON [continuing]. A few minutes ago that he certainly did not know that anyone had identified the vehicles as American-made.

Lt. Col. DALY. Sir, if you again look at that tape, you will see that Bo Friesen had turned off his radio, the one that listened to the squadron command net. That is a critical piece of information, because Bo could no longer hear directly what was going on. His

XO, if you also look at that tape, identified as Black Three, seems to know what was going on.

Senator THOMPSON. Are you saying that you, or someone under your direction, put that on the radio, the fact that American vehicles had been identified?

Lt. Col. DALY. Sir, I do not know. I cannot answer—

Senator THOMPSON. Are you aware of anyone else who will come forward and state that that was the radio, that they heard it, that they were aware of it?

Lt. Col. DALY. Sir, without looking at all of the evidence that has been provided—not provided, all of the evidence that has been collected, all of the testimony from all of the different people who both the GAO and the Army took testimony from, no, I cannot say that.

[Addendum at Exhibit 39(f)]

Senator THOMPSON. There are certain people who have reviewed all the testimony that has been provided and I think it is fair to say that—

Lt. Col. GERSTENLAUER. Senator, I believe what he is trying to say is that he could not review it all because it has not all been provided to him.

Senator THOMPSON. Would you identify yourself, please?

Lt. Col. GERSTENLAUER. My name is Lieutenant Colonel Gerstenlauer. I am the Regional Defense Counsel from the United States Army Trial Defense Service and I have been detailed to represent Colonel Daly because of the Army investigation into this matter, which has criminal consequences or at least the potential for criminal consequences for him.

As part of that representation, I have tried to obtain the information that makes up the basis for the GAO reports, makes up the basis for the Army Inspector General reports, and so forth. Because of the graciousness of the Comptroller General himself, we were able to get some documents from the GAO yesterday, but prior to that, they denied our requests. So Colonel Daly is at a decided disadvantage at this hearing, sir.

Senator THOMPSON. I am asking basically from your vantage point. Are you or are you not saying that you put that information on the radio and that you informed all the people under your command there of the fact that you and others had identified American-made vehicles?

Lt. Col. DALY. Sir, I do not remember.

Senator THOMPSON. Let us get back to the boundary line situation for a minute. Were you aware when Friesen reached his position there, as indicated on the chart, which, as we know now, is well south of the boundary line, were you aware of the fact that Friesen was over the boundary line, south of the boundary line at that point, when he first saw the engineers?

Lt. Col. DALY. Sir, I do not know that I recall that he was south of the boundary line.

Senator THOMPSON. Did you know, when you proceeded south, when the shots were first fired and you proceeded south, did you know that you were proceeding south of the boundary line?

Lt. Col. DALY. Sir, I do not recall whether I did or I did not, because at that point, I had been sent south through that fenced-in area. The green line that you see, Colonel Starr had told me to go

down to that point. Colonel Starr—and I am not sure exactly where he was on the map. I see where this chart has him, and I will accept that as true, but Colonel Starr had told me to send I Troop into that area and to go south myself.

Senator THOMPSON. What was that last comment, please, sir? I missed that.

Lt. Col. DALY. How far back should I go, sir? I am sorry.

Senator THOMPSON. Just the last sentence. Someone told you to go south yourself?

Lt. Col. DALY. Yes, sir. Colonel Starr directed me to go south into—me, personally, to go down to that point.

Senator THOMPSON. He did not direct you to go south of the boundary, though, did he, Colonel Daly?

Lt. Col. DALY. Yes, sir, he did. He directed me to go into the fenced-in area.

Senator THOMPSON. Were you ever aware of where the boundary line was?

Lt. Col. DALY. Yes, sir. I was aware that it was the 50 grid line.

Senator THOMPSON. And Colonel Daly directed you to go south of the boundary line, which was——

Lt. Col. DALY. Colonel Starr did, sir.

Senator THOMPSON. Starr, which was contrary to previous fragmentary order, as I understand it, is that correct?

Lt. Col. DALY. Yes, sir, but that is the nature of a fragmentary order. It is evolving.

Senator THOMPSON. This was because you had encountered the enemy, I take it, is that why he made the change in the order?

Lt. Col. DALY. His initial reason was because he—I am now saying what I think his original reason was, sir, and I am speculating. I do not know. Colonel Starr told me to go into the fenced-in area. My speculation is that we had come across something we had not expected to see and he had sent me in to determine what it was.

Senator THOMPSON. After you arrived at the scene, and I am talking about now where you were at the time the fatal shots were fired, did you personally observe any return fire from Lieutenant Wessels' unit?

Lt. Col. DALY. No, sir, I did not. I had had that reported and I had questioned it. Again, as you see in the GAO tape, Black Six and Black Three have a conversation about my asking those questions.

[Addendum at Exhibit 39(g)]

Senator THOMPSON. There was already a cease fire in effect when you arrived, is that correct?

Lt. Col. DALY. Sir, a cease fire is a term that has been used in a very broad sense. We had told Captain Friesen to stop his unit from firing, that is correct, but it was within my responsibility to change that as I saw the situation required.

Senator THOMPSON. So, yet, you ordered your gunner to fire without first being fired upon, is that correct?

Lt. Col. DALY. Sir, as we came down, I received reports that I Troop had been fired upon. I came upon the scene——

Senator THOMPSON. Prior to the cease fire?

Lt. Col. DALY. Prior to the cease fire. I came upon the scene and I Troop was in front of these—this burning building that was on

the ground. That turned out to be a trailer that had been fired into as part of the warning shots that are discussed in the GAO report. That—everything seemed to be held up then. I came down on the scene. I had brought with me not the whole command group but my S3. I sent for another vehicle.

Senator THOMPSON. How many vehicles were with you?

Lt. Col. DALY. Two. I then sent for the Psy Ops team that we had with us and had them play tapes that I understood were in Iraqi to tell Iraqis to give up. Then—nothing happened. Then people started moving around—

Senator THOMPSON. How much time are we talking about, now?

Lt. Col. DALY. Sir, I—

Senator THOMPSON. From the time you arrived, let us say, on the scene until the time the fatal shots were fired?

Lt. Col. DALY. Sir, I cannot answer that. I know what I thought. I thought it was about, from the time I got down there, 20 to 30 minutes.

Senator THOMPSON. You know now it was much shorter than that, I take it?

[Pause.]

Senator THOMPSON. GAO has testified that from the—

Lt. Col. DALY. Sir, did you want me to answer that last one? I am sorry.

Senator THOMPSON. Yes. Go ahead.

Lt. Col. DALY. Sir, I know now that it most probably is much shorter than that. In my personal recollection of it, it still seems like a very long time, but as Bo Friesen described, time takes on a new dimension, a time warp, if you will. It seemed longer.

Senator THOMPSON. I believe the GAO earlier testified that the time that elapsed from the first shot to the last shot was 7 minutes, 15 seconds. Did you hear that testimony from their investigation?

Lt. Col. DALY. Yes, sir, I did.

[Addendum at Exhibit 39(h)]

Senator THOMPSON. And, of course, when the first shot was fired, you were still north of the boundary line?

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. How long did it take you to travel from the northern position to your ultimate position, do you recall, or what the distance was? Perhaps that would be easier to estimate.

Lt. Col. DALY. Sir, I am influenced—I have to tell you, I am influenced by the testimony that Major Martin gave to GAO, which I saw for the first time last night. He said that it took about 10 minutes to get down there. That seems about right to me. We did not floor the accelerator and speed down there. We moved deliberately.

Senator THOMPSON. When you arrived, or during your positioning yourself down to your final position there, did you contact Captain Friesen, who was in charge, to get his assessment of the situation?

Lt. Col. DALY. Sir, I was constantly talking to Captain Friesen's Executive Officer on the radio, because I believed that he was using the system that the Army uses, the communications system that the Army uses with the M1 tank. He had in that tank a radio

that was capable of two-way communication and a receiver which was only receiving.

The way that Captain Friesen operated his troop, with my blessing, is that he was on the troop command net, talking to his subordinates. He listened to my command net and could hear what I was saying. If he had a message directly for me, he passed it through his Executive Officer. However, if you read the tape, Captain Friesen chose to break that system and turn off his receiver.

[Addendum at Exhibit 39(i)]

Senator THOMPSON. I think that that is probably very much in dispute, Colonel Daly, but be that as it may, did you request an assessment of the situation from Captain Friesen?

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. And what was his—

Lt. Col. DALY. I think if you look at the tape again, you will see that Colonel Daly, or Thunder Six, was asking for assessments almost continuously.

[Addendum at Exhibit 39(j)]

Senator THOMPSON. And what was Captain Friesen's response to you as to what the situation was there on the ground?

Lt. Col. DALY. Sir, I do not recall.

Senator THOMPSON. You do not recall what he told you about the situation there as you arrived?

Lt. Col. DALY. I do not recall that specific point, no, sir, I do not.

Senator THOMPSON. Going into a situation there was a cease fire, when, as I recall, the order that you were operating under was not to fire unless fired upon anyway.

Lt. Col. DALY. No, sir. I was going into an area where my soldiers had stopped firing because I had determined that they had "pumped out," as Captain Friesen described it in the tape, they had fired more rounds than I thought necessary at the time, causing this building to burst into flames.

[Addendum at Exhibit 39(k)]

Senator THOMPSON. And, of course, you were also under orders from Colonel Starr not to fire again until you had verified that it was, in fact, the enemy that you were dealing with, were you not?

Lt. Col. DALY. No, sir.

Senator THOMPSON. That was never a part of a fragmentary order that you were operating under?

Lt. Col. DALY. No, sir, I do not believe it was.

Senator THOMPSON. Reading here from page 41 of the GAO report, it says, "According to Colonel Starr's gunner, Colonel Starr twice told Lieutenant Colonel Daly to confirm that the target was enemy before firing, and Lieutenant Colonel Daly acknowledged this order at least once."

Lt. Col. DALY. Sir, I am sorry. Where do you see that?

Senator THOMPSON. Page 41—

Lt. Col. DALY. Check.

Senator THOMPSON [continuing]. Of the GAO report.

Lt. Col. DALY. Yes, sir. About how far down? I am sorry.

Senator THOMPSON. The first paragraph, the last part of the first paragraph.

Lt. Col. DALY. OK, I see it, sir. I am sorry. Sir, in retrospect, I do not recall it. It has been a long time.

Senator THOMPSON. That is a pretty significant thing, though, is it not?

Lt. Col. DALY. Yes, sir, it is.

Senator THOMPSON. It is a fair thing that the troops that you are firing on are, in fact enemy troops. So what we have established, apparently, is that as you moved south there, you were aware that there was a boundary line. You were aware that the 1st AD was south of that boundary line. You had identified an American vehicle. And I take it that it is somewhat in dispute as to whether or not you were actually told that there was a possibility of American forces in the area, although we have two witnesses that we have given to you who say that you were told that.

So those were the circumstances under which you arrived, and now what you are saying is that you did not get an assessment from Captain Friesen as to what the situation was there and proceeded to allow the engineers to be fired upon at that point, is that correct?

Lt. Col. DALY. No, sir, it is not correct.

Senator THOMPSON. Where am I wrong?

Lt. Col. DALY. Sir, the major point that I disagree with you on was that I was not getting an assessment from Captain Friesen. I viewed that I was getting a constant assessment, fed to me through his troop, of what was going on.

[Addendum at Exhibit 39(l)]

Senator THOMPSON. Now his assessment today, as you heard, was that he had the situation totally under control, that even if they had been Iraqi troops, there would have been no justification for firing on them, that he could have taken them out immediately, instantly, at any time. That was his assessment today. Now, are you saying that he told you anything differently there at the time that you arrived at the fatal site?

Lt. Col. DALY. I am saying he did not tell me that, sir.

Senator THOMPSON. What did he tell you? He is saying, of course, that according to his testimony today, that he did not tell you anything because he was not requested. In fact, he did not know you were coming. In fact, when you arrived, he almost shot you. And, in fact, when two people got out of your Bradley vehicle, he almost shot them.

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. Now, that is what he is saying today. This is your opportunity to tell us where he is wrong.

Lt. Col. DALY. Sir, I do not believe that he had told me that he thought there were friendlies there. I believe when you look at the——

[Addendum at Exhibit 39(m)]

Senator THOMPSON. I did not ask you that. He never said——

Lt. Col. DALY. Rephrase the question, please, sir.

Senator THOMPSON. He never said that he thought they were friendlies.

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. What he said was that he never was asked for an assessment, that his assessment was that he had the situation totally under control, there was no justification for firing on these people, even if they were Iraqis, that he did not know that

you were coming down there to his position at all, and that he never had the opportunity to give his reason for maintaining the cease fire. He also said that after the fatal shots were fired, that the other troops there on the ground were irate and some talking about taking action against you and that sort of thing.

So what their state of mind was there at the time apparently is clear. What I am asking you is, in what way is that correct, if you got an assessment from him, the individual who was in charge, what your recollection is as to what that assessment was and how it differs from what he says it was today.

Lt. Col. DALY. Sir, that is a whole handful of questions. I will try to break it down. The first I would like to talk about is he did not know I was coming down to the area. Again, going back to this tape, his XO knew I was coming down to the area. His XO knew I was in the area, on the site, because he has said, frankly, immediately after the shots were fired, the XO immediately identified that I was there——

Senator THOMPSON. I am listening.

Lt. Col. DALY. OK, sir. He had immediately identified that I was there.

The second thing is, I come back to the assessment. Did I ask him for an assessment? If you look at the tape, there is discussion of asking for situation reports. Sir, that is asking for an assessment. That is what that phrase gets one commander from another. That is why we operate on what we call a command net, which is only commanders operating on that net, commanders and their——

Senator THOMPSON. Excuse me, and I do not want to cut you off.

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. This tape, we read the tape, and it is very fragmentary. I suppose that a knowledgeable person can make more out of it than a lay person can. Apparently there was one clear indication here that at least one of the soldiers there, in describing your actions, just said, "Just wanted to get in some shots." That was his assessment of your performance there.

But let us set aside the tape just a minute. I am asking about your recollection. Let us make sure that we are clear on that. The Captain stated that he was never asked or never gave an assessment as to what he described here today as having the situation under control, and I am just simply asking, from your recollection, is that accurate or not?

Lt. Col. DALY. From my recollection, I was asking him for situation reports as we were coming down. I did not have him switch from his radio to my radio because I wanted him to maintain control of his unit.

[Addendum at Exhibit 39(n)]

Senator THOMPSON. You think the tape reflects that, your conversation with him?

Lt. Col. DALY. No, it does not, sir. That is another thing. The tape is not of my command net. The tape is of Captain Friesen's command net, so all I can go with is what they are saying there.

Senator THOMPSON. It is a little——

Lt. Col. DALY. Can I add one other thing, sir? I am sorry.

Senator THOMPSON. Sure.

Lt. Col. DALY. And again, I do not mean to interrupt you, either, sir.

Senator THOMPSON. No, go ahead.

Lt. Col. DALY. There is a fundamental difference in the way people remember this. The people who were in my operations center on my equivalent of Black Three, my XO, my fire support officer, my S2, the testimony seems to indicate that they knew that we were going down there for enemy and that we had had those kinds of conversations.

Senator THOMPSON. Why did you allow your gunner to fire?

Lt. Col. DALY. Sir, I allowed my gunner to fire because we, at that point, had been held up, again, for what I viewed as a long time. The soldiers on the ground in front of us, the combatants on the ground in front of us, were not surrendering. It looked like they were either going to flee or were going to move to our flank. It looked like they were not—again, and I am repeating myself—it looked like they were not surrendering. Combatants either surrender or they fight, and that is why I ordered him to fire, sir.

Senator THOMPSON. So you saw, what, what turned out to be one soldier fleeing, is that—

Lt. Col. DALY. No, sir. I saw several soldiers moving around in front of me. We—

Senator THOMPSON. Of course, by that time, one was wounded.

Lt. Col. DALY. Yes, sir. And although I have tried not to be influenced by everybody else's testimony and tried to rely on my memory, that becomes very difficult. My gunner had a great deal of experience in identification of other enemy forces. He was very good at what he did, in my assessment.

Senator THOMPSON. Very good at identification?

Lt. Col. DALY. I thought so, yes, sir.

Senator THOMPSON. At your northern position, you were able to make out an American vehicle, an M548, and yet in your southern position, it still did not appear to you that they might be American troops, so your gunner did not turn out to be very good at identifying, did he?

Lt. Col. DALY. Yes, sir. We had a hard time with identification, sir. Part of that was because of this large fire that was in front of us. We have night sights that have been described to you as you cannot see certain things through those sights, but when it suddenly turns to daylight in front of you with this large fire, it becomes more difficult. This was people moving around a bonfire, if you will, sir.

[Addendum at Exhibit 39(o)]

Senator THOMPSON. They were trying to avoid being shot, were they not?

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. And there was not really a flanking movement. You were not concerned about being outflanked by those individuals, were you?

Lt. Col. DALY. Yes, sir, we were. We saw within the circle of this fire just a few people, but still, in the back of my mind, there was the possibility that there were more people out there. If you read the testimony of Sergeant Woborski, he very eloquently describes this individual moving to the flank.

[Addendum at Exhibit 39(p)]

Senator THOMPSON. An individual moving to the flank? How many vehicles were on the site there at the time? You brought two with you?

Lt. Col. DALY. I brought two with me.

Senator THOMPSON. How many—

Lt. Col. DALY. I would guess there were about ten vehicles there.

Senator THOMPSON. How many tanks?

Lt. Col. DALY. I only remember the one, Captain Friesen's.

Senator THOMPSON. And you were concerned about this individual flanking you. Of course, you have heard Captain Friesen's testimony of his assessment, of course, again, totally under control, but you did not have the benefit of his assessment at the time you allowed your gunner to fire, did you?

Lt. Col. DALY. I thought that I had had the benefit of his assessment, because I thought I was getting it from his Executive Officer. But no, had he given what we have heard today and understand now, no. I still would contend that I had his assessment, or what I thought was his assessment, because I was asking him to tell me what the situation was and he was telling me the situation. Part of that situation report is telling that kind of thing.

[Addendum at Exhibit 39(q)]

Senator THOMPSON. What did he tell you that was involved in your decision to allow the engineers to be fired upon?

Lt. Col. DALY. Sir, when we went to the south, he told me—this was before I was to the south—he told me that he had this force and he wanted to fire warning shots.

Senator THOMPSON. He fired the warning shots and you considered—

Lt. Col. DALY. Sir, if you would excuse me, I need to correct myself.

Senator THOMPSON. Go ahead.

Lt. Col. DALY. He asked to fire at them. I specified that he would fire warning shots. He then fired the warning shots. The expression in here is "pumped a few rounds into the building," which in my book, I would not characterize that as a warning. That is firing directly at them.

Senator THOMPSON. But you thought that was excessive?

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. And after that, the cease fire was in effect.

Lt. Col. DALY. I told him to stop firing, yes, sir.

Senator THOMPSON. And you came down, and without any further conversation, you allowed your gunner to—

Lt. Col. DALY. No, sir, not without further conversation. There was considerable conversation. There was—

Senator THOMPSON. With the Captain?

Lt. Col. DALY. With the Captain's unit. The Captain listening in on my command net while I have called down the Psy Ops team. There are discussions back and forth between me and my S3.

Senator THOMPSON. What did the unit tell you that caused you to fire, if anything? I mean, I assume—

Lt. Col. DALY. Sir, I—

Senator THOMPSON. Let me see if we can cut through this. Let me ask it another way. You have heard testimony here today from

the Captain, who said, yes, they fired a warning shot. Yes, they stopped. He said that one had been wounded, that they had the situation totally under control. Now, this is an individual who did not have the information that you had that looks like they very well might be American troops down there. But even if they were just Iraqis, he said he had it totally under control. There had been no justification for firing even if they had been Iraqis.

Now, you heard his testimony here today, and he is still here. Regardless of what some intermediary said or the fact that he could receive but could not transmit but one of his people could transmit, where is he wrong? How is he telling us something different today than what you recall he or his person or someone you thought representing him was telling you there early that morning?

Lt. Col. DALY. Sir, we had fired warning shots. He had reported that he had received fire. Now, we know that is wrong. I think you and the GAO have adequately described, and certainly, when Lieutenant Wessels so movingly spoke today, spoke about the fire, or not having fired. Sir, I believe that.

But, the fact of the matter is that we had received a report that my unit had been fired upon. I went down on the scene. There was this large fire. It appeared that we were held up. There were conversations that I do not remember what exactly was said. And, I was receiving reports from my gunner that it looks like this is a dangerous situation. It looks like this guy is moving off to our flank. These people are not surrendering, and so he asked me for, can I fire at their feet?

[Addendum at Exhibit 39(r)]

Senator THOMPSON. So you were relying on your gunner for this information? He requested—

Lt. Col. DALY. I was relying on my gunner, but I was also looking through my sight, standing up, looking out of the top of the turret with my eyes. So it is a combination of inputs. And, yes, I was receiving inputs from I Troop. I do not remember—

Senator THOMPSON. So getting back to my question, I take it there is nothing, basically, that you disagree with Captain Friesen's testimony?

Lt. Col. DALY. Oh, no, sir.

Senator THOMPSON. That is a factual—

Lt. Col. GERSTENLAUER. I think that is a mischaracterization, Senator. He has clearly made some distinctions here.

Senator THOMPSON. I asked him if there was anything he disagreed with, and I got a rendition of—

Lt. Col. GERSTENLAUER. You said that—

Senator THOMPSON. Let me finish. I got a rendition of his assessment of what happened that night, which is pertinent testimony but is not an answer to my question. He said he saw the situation like that. He had never had an opportunity, he was never asked for his assessment, and he never gave his assessment, and you showed up and made a determination to break the cease fire and allow these people to be fired upon. Now, I am just asking you where he is wrong.

Lt. Col. DALY. Sir, he is wrong in that he did—excuse me a second.

[Pause.]

Lt. Col. DALY. Sir, the major point that we are disagreeing on is whether or not he was giving me assessments. I do not disagree, now knowing that he turned off his radio, that he was not giving me assessments. I can tell you, I thought I was receiving them because we were operating in the normal way that a combat operation would operate.

Senator THOMPSON. What is the source of your information that he turned off his radio?

Lt. Col. DALY. Sir, it is the GAO report, in the tape.

Senator THOMPSON. The tape? Can you tell that from the tape?

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. All right.

Lt. Col. DALY. Let me find it, sir.

[Pause.]

Lt. Col. DALY. As we are looking——

Senator THOMPSON. As we are looking, we will move on and maybe counsel can find that as we go ahead.

Lt. Col. DALY. We can do that.

Senator THOMPSON. After the incident, you told Captain Friesen that, according to the testimony, that “We have to keep this under our hats.” Is that correct?

Lt. Col. DALY. Sir, as I told General Halley, I do not remember those words. But, I do remember that I made a conscious effort, which may have been misunderstood, to try to keep all of the witnesses from—not collaborating, but—from influencing one another in their renditions of what happened. I knew from the moment it happened, from the moment Captain Venezia reported to me that they were Americans and I reported to the Regimental Commander, I knew that there was going to be an investigation and I did not want that investigation tainted.

Senator THOMPSON. Do you recall using those particular words?

Lt. Col. DALY. No, sir. I have just said, I do not recall it. If I did, it was a poor choice of words.

Senator THOMPSON. How could, “Let us keep this under our hat,” be confused with not tainting the investigation?

Lt. Col. DALY. I am sorry——

Senator THOMPSON. Do you recall what you did say, exactly?

Lt. Col. DALY. Sir, I am sorry. I have to ask you to repeat the question.

Senator THOMPSON. You do not recall whether or not you said, “Let us keep this under our hat,” and you say your motivation was you did not want the investigation tainted. If that was your motivation, is there any possibility that you could have said, “Let us keep this under our hat”? I mean, is that any way consistent with making for a pure investigation?

Lt. Col. DALY. Obviously, it is not, sir. If I used those words, and I cannot tell you whether I used them or I did not use them—sir, I want to be very clear. I had no intention of in any way hiding what went on that night.

Senator THOMPSON. Did you receive a Bronze Star medal for your actions during the Persian Gulf War?

Lt. Col. DALY. Yes, sir, I did.

Senator THOMPSON. Did your Commander, Colonel Starr, recommend you for that award?

Lt. Col. DALY. Sir, I am not sure I know who recommended me for the award, and it was not for the Desert Storm War, it was for Desert Shield/Desert Storm. It was a service award for the period of time. Colonel Starr did pin that award on in a ceremony at Fort Bliss.

Senator THOMPSON. And I believe in that ceremony they read a narrative that accompanies your medal recommendation, and I want to read from that narrative. "Lieutenant Colonel John Daly has distinguished himself by both meritorious and valorous actions. The most significant demonstration of valor occurred on 26–27 February 1991, during a night attack of an enemy airfield. Lieutenant Colonel Daly calmly and systematically sorted through the confusion and directed the actions of I Troop in clearing the objectives. In all phases of this operation, Lieutenant Colonel Daly's service has been replete with valorous and meritorious action."

That narrative describes the attack on Sergeant Fielder's unit, is that correct?

Lt. Col. DALY. Sir, the reason we are back-and-forthing here is that this is the first time I have seen this.

Senator THOMPSON. Was that language not read at the time of the medal ceremony?

Lt. Col. DALY. No, sir, I do not think it was. I was not given an award for valorous service. This is not what I have seen on the certificate that I was given, and I do not think this is what was read.

Senator THOMPSON. The certificate, of course, is a certificate, but the narrative accompanying it is more or less the reasons for the award.

Lt. Col. DALY. Sir, the process that happens with the recommending of an award is somebody writes this up, a clerk types it, it goes through an approval process, which I will not go through right now, but it goes through an approval process, and all that I see at the end state of it is a certificate, and in some cases, only a set of orders.

Senator THOMPSON. This is the narrative that the Army provided that accompanied your Bronze Star.

Lt. Col. DALY. Sir, the Army has not provided it to me, to my knowledge.

Senator THOMPSON. Are you surprised to learn that you received your medal, at least in part, because of the action that happened with regard to the incident we have been talking about?

Lt. Col. DALY. I am absolutely shocked, yes, sir.

Senator THOMPSON. Knowing now that your award—assuming, for the moment, that your award was based, at least in part, on this friendly fire incident, do you think that that award was deserved?

Lt. Col. DALY. Sir, the award was not for the friendly fire incident, and no, sir, I do not think so.

Senator THOMPSON. Let us make sure you are clear now. What did you say? You do not—

Lt. Col. DALY. Sir, I do not think that the Bronze Star that I am wearing today was for that incident.

Senator THOMPSON. I notice it was awarded on May 2. We have the award itself there, and part of that language says, "for exceptionally meritorious achievement in support of actions against a hostile force."

Lt. Col. DALY. Yes, sir, and I think Saddam Hussein's army was a hostile force and I think I did participate in the operations that were responsible for defeating him.

Senator THOMPSON. So that any soldier—

Lt. Col. DALY. And when Colonel Starr gave me that award, he made it very clear to me that it was a service award for from the 1st of October—I think it was the 1st of October—when we went to Saudi Arabia through the end, until our arrival back at Fort Bliss. I do not view this as that particular evening or morning in any way.

Senator THOMPSON. So any soldier who participated in the Desert Storm campaign would have been entitled to the Bronze Star?

Lt. Col. DALY. If his commander determined that he thought that that service was meritorious, yes, sir.

Senator THOMPSON. Well, if all that was involved in it was being against Saddam Hussein, how did your actions differ from anyone else's?

Lt. Col. DALY. Sir, that is for others to determine. You are asking me to defend why my commander gave me an award and I do not think I should do that.

Senator THOMPSON. I notice here that your award was awarded on May 2, 1991, which is the same day that an award was given to Sergeant Kenneth Shumate—do you remember him?

Lt. Col. DALY. Yes, sir, I do.

Senator THOMPSON. He was in your Bradley vehicle, was he not?

Lt. Col. DALY. Yes, sir, he was.

Senator THOMPSON. It was also the same day that the award was given to Captain Patrick Venezia.

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. Do you recall him?

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. He was also in your vehicle, was he not?

Lt. Col. DALY. Yes, sir, he was.

Senator THOMPSON. Those were the two individuals who Captain Friesen said proceeded in front of his position and they almost shot, is that correct? Those are the individuals he was identifying?

Lt. Col. DALY. Those are the two individuals, yes, sir.

Senator THOMPSON. So they were both awarded Bronze Stars with "V" for valor, which is awarded to any soldier who distinguished himself by heroic or meritorious achievement or service in connection with military operations against an armed enemy.

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. You recommended, of course, Captain Venezia yourself, right?

Lt. Col. DALY. Sir, I would have to see the document you have.

Senator THOMPSON. OK.

[Pause.]

Lt. Col. DALY. Yes, sir. I recommended Captain Venezia and Sergeant Shumate for a valorous award because I believed that when

they dismounted that vehicle and went forward to meet people we thought were the enemy, even after—well, people that we thought were the enemy. I thought that was brave.

Senator THOMPSON. Of course, the GAO had a different perspective of that, did they not? They thought it was a dereliction of duty for you to send a couple of individuals out there in front of their own troops, unidentified, and putting them in harm's way. You recall that from the GAO report?

Lt. Col. DALY. That is the GAO's assessment, yes, sir.

Senator THOMPSON. According to your language here, in recommending this Venezia, it says, "for exceptionally meritorious heroism in the face of hostile fire during a regimental attack to seize the airfield in the early hours of 27 February 1991. Captain Venezia distinguished himself by volunteering to dismount and take enemy prisoner personnel. With reported enemy fire and burning vehicles to his front, Captain Venezia dismounted, rushed forward of friendly vehicles to take prisoners." Was this before or after the fatal shots were fired, when he rushed forward to take prisoners?

Lt. Col. DALY. Sir, it was after the fatal shots were fired.

Senator THOMPSON. "He was responsible for diffusing the situation, restoring order, and saving the lives of at least four American soldiers."

Lt. Col. DALY. As Captain Friesen has pointed out, we had a lot of firepower there, sir. We could have fired more rounds than we did. Captain Venezia, when he went forward, did so to try to—we sent him forward to try to diffuse the situation.

Senator THOMPSON. You were the one doing the firing, Colonel. Was the Captain keeping you from continuing to fire? Is that what you are saying?

Lt. Col. DALY. No, sir. He helped me in my assessment of what was going on on the battlefield. He did something brave. We can now say, because these people were not the enemy, OK, that was not brave, but we thought it was a very brave thing to get out of that vehicle and go forward.

Senator THOMPSON. You state here in his recommendation that he did so in the face of hostile fire. You knew at the time you wrote this award, of course, that he was not facing hostile fire.

Lt. Col. DALY. No, sir, I did not know that he was not facing hostile fire.

Senator THOMPSON. After you arrived on the scene, at any time did you see the people you were shooting at fire?

Lt. Col. DALY. No, sir, I did not.

Senator THOMPSON. So you are basing this on the hostile fire that you thought occurred, which we now know apparently did not ever occur, but you thought occurred back before you arrived at the scene?

Lt. Col. DALY. I am basing it on the reports that I had received, sir.

Senator THOMPSON. And back before he arrived at the scene?

Lt. Col. DALY. Yes, sir.

Senator THOMPSON. So you recommended him for this medal, and, apparently, he, in turn, recommended Sergeant Shumate, who also departed from your vehicle. So the ones in your vehicle, you

recommended Venezia. Venezia recommended Shumate. And all of the awards, including yours and theirs, were awarded on the same day. Do you think that maybe your award might have had something to do with that incident, in retrospect?

Lt. Col. DALY. In retrospect, when Colonel Starr was pinning it on, he was very clear to me that it had nothing to do with the incident.

[Addendum at Exhibit 39(s)]

Senator THOMPSON. Has your Bronze Star been revoked?

Lt. Col. DALY. No, sir, it has not.

Senator THOMPSON. Other men in your unit also received Bronze Stars for heroism, as we just mentioned, based on their actions during the attack on Sergeant Fielder's unit. Of course, we know that you recommended Captain Venezia. This recommendation commended Captain Venezia for saving the lives of four American soldiers. Would you describe again how he saved the lives of four American soldiers?

Lt. Col. DALY. By determining that the people on the ground were Americans, he helped us not continue the fight there.

Senator THOMPSON. Did he run out there and report back to you—

Lt. Col. DALY. Yes, sir.

Senator THOMPSON [continuing]. That these were Americans?

Lt. Col. DALY. He ran out. He saw what—he found what had happened. He ran back and talked to me.

Senator THOMPSON. Did it ever occur to you to do that before you fired the fatal shots?

Lt. Col. DALY. No, sir, it did not.

Senator THOMPSON. Colonel, by recommending these two individuals who were with you—was anyone else with you in that Bradley vehicle?

Lt. Col. DALY. Sir, there was a driver in the vehicle, and I think that was all—they were the only people there.

[Addendum at Exhibit 39(t)]

Senator THOMPSON. Was your recommendation for this medal for Captain Venezia part of an attempt to get him to keep the lid on the situation?

Lt. Col. DALY. No, sir, it was not, not in any way, shape, or form. I encouraged everyone there to tell the truth.

Senator THOMPSON. Colonel, do you think, in retrospect, that you should have recommended a medal for someone who was involved in a friendly fire case?

Lt. Col. DALY. Sir, in retrospect, I wish like hell that I had not. But, I still would say to you, this was a brave act that this man did, and I will leave it at that, sir.

Senator THOMPSON. In your opinion as a military person, should medals ever be awarded for people who accidentally kill their fellow soldiers in combat, regardless of bravery?

Lt. Col. DALY. Sir, Captain Venezia did not do that. Captain Venezia and Sergeant Shumate were in the back of the vehicle and had nothing to do with it.

Senator THOMPSON. Let me rephrase it. Should medals ever be recommended to anyone who is a part of a force that kills fellow American soldiers?

Lt. Col. DALY. Sir, I think that you need to evaluate the facts of each particular incident. You are asking me for a blanket statement and I am not willing to give that blanket statement, sir.

Senator THOMPSON. All right, sir. I think those are all the questions I have.

Lt. Col. DALY. Sir, you had asked me earlier about the radio conversation.

Senator THOMPSON. Yes, sir.

Lt. Col. DALY. On page 98, at the bottom of the page, next to the last line, Black Three says, "This is Three. Roger. Higher. 3rd Squadron Commander is aware. He just keeps asking for situation report." Black Six: "Roger. I cut the aux. off because there was too much confusion."

Senator THOMPSON. All right, sir. Thank you very much.

Lt. Col. DALY. Sir, you understand what an aux. is, do you not? It is the other radio.

Senator THOMPSON. I think I understand.

Lt. Col. DALY. Thank you, sir.

Senator THOMPSON. Thank you.

We have one other panel of witnesses, but I do think that a break would probably be in order right now. Why do we not recess until 2 p.m.

[Recess.]

Senator THOMPSON. The Subcommittee will come to order.

The final witnesses today will be a panel of officials from the United States Army. I want to note for the record that the Subcommittee formally invited Army Secretary Togo West to testify at this hearing. However, an Army representative advised the Subcommittee that the Secretary would not be available today. We regret that Secretary West is not appearing before us.

Testifying for the Army will be General Ronald H. Griffith, Vice Chief of Staff; Sara E. Lister, Assistant Secretary for Manpower and Reserve Affairs; and Major General Michael Nardotti, Judge Advocate General.

As you know, we swear all witnesses who appear before this Subcommittee and I will ask all of you to rise and raise your right hands.

Do you swear that the testimony you give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

General GRIFFITH. I do.

Ms. LISTER. I do.

Major General NARDOTTI. I do.

Senator THOMPSON. Thank you.

Who desires to go first, or, Ms. Lister, are you the only one making a statement?

Ms. LISTER. I am the only one with a prepared statement, and I would like to submit it for the record, if I might, and summarize it briefly.

Senator THOMPSON. So ordered.

Ms. LISTER. Thank you.

**TESTIMONY OF SARA E. LISTER,¹ ASSISTANT SECRETARY,
MANPOWER AND RESERVE AFFAIRS, UNITED STATES ARMY;
ACCOMPANIED BY GENERAL RONALD H. GRIFFITH, VICE
CHIEF OF STAFF, UNITED STATES ARMY; AND MAJOR GEN-
ERAL MICHAEL NARDOTTI, THE JUDGE ADVOCATE GEN-
ERAL, UNITED STATES ARMY**

Ms. LISTER. Thank you for the opportunity to testify on behalf of the Department of the Army with respect to the tragic incident on the night of February 27, 1991, and the subsequent actions taken by the Army.

As you noted, I am accompanied today by General Ron Griffith, who is now the Vice Chief of the Army but who was Inspector General of the Army, and before that the commander of the 1st Armored Division during the Persian Gulf War. He can speak with great knowledge of these events.

I am also accompanied by Major General Mike Nardotti, who is the Judge Advocate General of the Army and who will be able to answer specific questions with respect to the regulations and processes.

First and most importantly, I would like to apologize on behalf of the Department of the Army to the parents of Sergeant Douglas Lance Fielder. I have great sympathy for them. I can assure you that the entire Army does. I know that it is hard enough for them to have lost a son, but even worse was the feeling that they have had that the Army had abandoned them. I want to assure them that the Army has never lost hold of this incident and we have made many mistakes. I said that in my prepared statement and I repeat it now to them. But we have never lost hold of the effort to find the truth and to bring this matter to resolution with both justice and compassion.

Second, I want to commend the professionalism and thoroughness of the GAO investigation. Shortly after I was sworn in as Assistant Secretary of the Army, I attended a briefing given by the GAO to the Inspector General and a group of people who were pursuing this tragic event. I was very impressed then. It was the first time the Army had heard the tapes. Everyone in that room was moved by them. I knew then that the GAO had already done a very impressive job, and reading the written report just confirmed my original belief.

There are four issues that arose from this tragic event that I will discuss briefly, and then General Griffith would like to say a few words, if it is all right with you, and we will be ready to answer your questions.

First of all, the investigations. I have no doubt that they were flawed, having read as much of them as I have. The first two AR 15-6 investigations, really, they were one investigation in two parts because they were done by the same individual, a young captain. They were flaws partly because of his junior status. It is not proper under the regulation to do an investigation of that kind with an officer who is junior to the commander being investigated. Nevertheless, because it was a wartime situation, that seemed the best answer.

¹ The prepared statement of Ms. Lister appears on page 83.

What impressed me, going over the file, was the fact that the Army did not let the matter rest there. Questions were asked from the very beginning. Questions were asked by the commanders of those soldiers who were killed. General Griffith's superior, General Freddie Franks, wrote an extensive memorandum to General Luck which asked a whole series of questions, factual questions, because it was clear that the investigation had not gone far enough.

A second investigation was conducted. That one, also, had problems. It again appeared not to hold anyone responsible. The conclusions did not appear to be appropriate to the Army leadership. There again, we have in the record an extensive memorandum of questions which were to be followed up on by the Judge Advocate General of the Commander, Forces Command, who was the one with responsibility for determining what actions should be taken.

Obviously, the GAO did a somewhat better job of finding all the facts than the Army did. However, the GAO report itself said, and I believe, looking at it, that there was enough there in the facts for the right conclusions to be drawn and for action to be taken on those facts. In fact, General Burba did issue letters of reprimand. He, getting responses, made some changes in his recommendations as to what would happen to the individuals involved, but that was not the end of the matter.

Again, I can only state that the investigations were flawed, but all the facts were there in the end. The commanders who cared about their troops, who cared deeply about those who were killed, did continue to ask questions.

Secondly, the casualty notification process. To speak frankly, that horrified me. It horrified me, in part, because even during this year when I have been with the Army, we have had some tragic accidents. Fortunately, we are not at war, so these were training accidents, and I know how much the Army cared about getting to the families fast with as much information as they had. So I was struck by what was clearly a bad process and bumbling on the part of those concerned.

On looking at it all, it appears to me to be clear that it was not done intentionally. It was tragic. I would never want to have that happen to parents of any soldier killed in the line of duty again. Hopefully, with the help of the Congress, which passed some legislation, we have fixed the process so that it will not happen again. I know that in war, things sometimes get complicated, but here, I can only apologize again for what was clearly bad. Parents deserve to know the facts, even if they are not the whole facts, as soon as those in charge know them, and I believe that very strongly.

Third, awards. This is something that strikes particularly close to home, because I am the one who received the letter from the Inspector General in August of this year suggesting that, in light with the GAO recommendations, that we look at awards that were given which appeared to be misstated, to put it in the best light. Awards were given, Bronze Stars with the "V" for valor, for events of that night.

We sent the letter to the appropriate people to work, and the Army worked it. The Army did not work it fast enough, nor, at the time, did we understand exactly what was going on. It was only when I read myself the award recommendations, the narratives

that go with the awards, that I understood the seriousness of the problem.

As you know, the Secretary of the Army revoked those awards because he did not quite understand where the process was at that time. I have since, on going through the files, seen that the soldiers who were given those awards were, indeed, soldiers who had done professional and sometimes brave things. These were not soldiers involved in the incident.

They should never have gotten an award with the "V" for valor, because this was not an incident that happened under enemy fire, but it is quite possible that they deserved to be recognized for their service, especially there was, as I recall, an Army surgeon and some other people who helped with the wounded. The narratives were definitely wrong, but they did not see the narratives. The narratives are written by other people who recommend them for the awards.

So, there again, we are culpable. We are reviewing that, and we are also reviewing our processes. We need to be able to suspend awards when they are in question, instead of just revoking them. Suspending them means a soldier cannot wear them and they really are not in a position to feel that the matter is closed, but it perhaps is somewhat fairer to the individuals involved.

We are also changing the regulation, and this will take some time because we want to do it right, to ensure that when instructions go out to the field in a wartime setting, that, number one, the field is reminded that the narrative must be accurate and must reflect the facts, and second, that they be reminded that fratricide is never a kind of situation in which a Bronze Star with a "V" for valor should be awarded.

There is another problem with awards and that is awards that were given to other soldiers, perhaps, in other fratricide incidents during the Persian Gulf War. We do not know much about that yet. That is still being looked at by the proper people, and, hopefully, we will have an answer to all questions about those other awards by the middle of August.

The awards given to those in command are a different issue, and there we have the Commander of the Military District of Washington, who is the Court Martial authority, looking at the issue of whether awards given were appropriate, as well as the matters that happened that night.

Finally, I need to say a word about other personnel issues. There is only one officer who was personally involved in those incidents who is still on active duty. His actions are still under review, so it would be inappropriate for me to prejudice the decision making process.

What I can say, however, is that anything with respect to the future of Lieutenant Colonel Daly and the Army is on hold. He has not been promoted. He has not attended Senior Service College. No matter what happens with the recommendations and the decisions of the Commanding General of the Military District of Washington, Army Headquarters can still do a further review of his own status to make sure that whatever board considers him knows all the facts.

In summary, I want to state again that we made serious mistakes, but the Army itself corrected them and we have learned from them. We will be very happy to work with you and the Committee staff to ensure that the processes we put in place for the future are the right ones.

Finally, and most importantly, I want to reiterate that the Army does honor Sergeant Fielder's service and his sacrifice. Thank you, sir.

Senator THOMPSON. General Griffith?

General GRIFFITH. Sir, I have no prepared statement. I would just like to comment that I was the Commanding General of the 1st Armored Division during the Gulf War. The division was a part of the main attack against the Republican Guards. At the time we attacked into Iraq, the division was at about 24,000 strength. The engineer battalion, of which Sergeant Fielder was a member, was a part of that task force. It had been added to the division in Saudi Arabia.

I have reviewed the GAO report. I think the GAO report fairly and objectively captures the essence of the events of this tragic occurrence. I would take exception with one observation from the GAO report. It has to do with the statement that coordination between the 3rd Armored Cavalry Regiment and the 1st Armored Division, the two flank units of the XVIII Airborne and VII U.S. Corps, had broken down.

In fact, on the 26th of February, we had made the turn to the east. We had been told by General Schwartzkopf that we were in, to use a military term, a "pursuit operation." His expectation was for us to go as aggressively and as rapidly as possible to attack the Republican Guard forces in their positions. We moved to execute those orders.

I would say that a major separation occurred between the 3rd Armored Cavalry Regiment and my division, but that the coordination did not, in fact, break down. I had continuous communication with the 3rd Armored Cavalry. I had a captain from my organization who was with the command group of the 3rd Armored Cavalry Regiment. We had communications with that regiment throughout the afternoon of the 26th, and on into the night and the morning of the 27th when this tragic event took place.

So that is the one exception I would take with the GAO report—the characterization that coordination had broken down. But otherwise, I would say that the GAO report is fair and objective, and I think it is accurate in capturing the events of this tragedy.

Sergeant Fielder was the first soldier of the 1st Armored Division to die in Iraq. I only state this to put his death in context. The 1st Armored Division fought two of the largest battles of the war. We fought the Tawakalna Division, and we fought the Medina Division. We suffered four killed and 57 wounded. Sergeant Fielder was the first to die.

I think about those four deaths every day. I probably think of Sergeant Fielder more than I do the others because the others died in operations against the Iraqis. Sergeant Fielder's death is painful. It remains painful for me because it should not have occurred, and so I regret that deeply. I would say that I agree with Ms. Lister. Certainly, I would not even attempt to assert that I could have

the same feelings about the event that his family has—the pain is not the same—but the pain for me is very deep.

I would tell you, sir, that as Sergeant Fielder's commander, for 4 years I have done everything that I could do within my power to assure that the events of that evening were accurately captured, that eventually the truth would be recorded, and that the truth would be reported to the family of Sergeant Fielder.

I would tell you, sir, that we bungled it along the way, but I would also tell you, unequivocally and without hesitation, that there was no attempt on the part of the United States Army to cover up anything. I would also tell you, sir, that while Ms. Shelton was working aggressively to ensure that the truth was told, there was a group of folks in uniform in the United States Army who were doing the same thing, working in parallel with her efforts to also assure that the truth was told.

Again, sir, we cannot bring back that great young soldier, but we did have an obligation and I have felt so from the 27th of February, to record the truth and tell it to his family. I apologize to the family that it took us so long to get it right. But I ultimately do believe that we got the facts right, and the story was told accurately. The facts were not, in fact, covered up.

That is all I have to say about this, other than to be willing to answer any questions that any member might want to pose to me.

Senator THOMPSON. Thank you, General Griffith. I appreciate your candor and that of Ms. Lister. I think we have come a long way. I do not think we are quite there yet, but we will discuss that in a minute.

I do think that it should be pointed out that it was the Army Inspector General's office that raised questions that ultimately resulted in an accurate rendition of these facts coming out, after the second investigation concluded that, well, it essentially absolved all those concerned and it was sent at that point to the Forces Command Staff Judge Advocate. At that point, of course, certain recommendations were made. Colonel Starr was reprimanded. Lieutenant Colonel Daly was reprimanded. Captain Friesen was reprimanded. Lieutenant Wessels was admonished. At that point, as I understand it, it went to General Burba, is that correct?

Ms. LISTER. That is correct.

Senator THOMPSON. He is Commander in Chief, Forces Command. General Burba made the decision to withdraw the reprimand of Captain Friesen. He made the decision not to place Colonel Starr's reprimand in his personnel file, is that correct?

Ms. LISTER. That is correct.

Senator THOMPSON. He also made the decision to file Lieutenant Colonel Daly's reprimand in his personnel records jacket, which is not a part of the official personnel records reviewed for promotions, is that correct?

Ms. LISTER. That is correct.

Senator THOMPSON. I cannot go so far as to commend the General for making those determinations and those decisions, and I assume that this reprimand—well, of course, by this time, Lieutenant Colonel Daly had already received his recommendation for his medal, is that correct, at the time the reprimand was made?

Ms. LISTER. I can only believe so. I do not know the dates, but that sounds logical.

Senator THOMPSON. Ms. Lister, are you saying by your testimony that it may be appropriate to award the Bronze Star for actions involving a fratricide without the "V" for valor? You mentioned—

Ms. LISTER. I am not saying that it is appropriate to award the Bronze Star for fratricide. Absolutely not. There is a difference, however, and I have learned this in the past month, between a bronze star which is given for extended service and for acts which might, indeed, have been taken in connection with a fratricide but were, in themselves, perfectly appropriate and professional. A "V" for valor award would never be appropriate in a fratricide, and, in fact, I think I have some discomfort with any award given in connection with a fratricide except, of course, for those who, indeed, did things to save the situation.

Senator THOMPSON. Of course, the facts of this individual case or these individual cases, you say, are under review. Of course, they have been under review for some time now, have they not?

Ms. LISTER. They were supposed to be under review beginning the end of last August. I doubt very much whether it was started then. I have also since learned that it is a fairly small office that does this, so unless you keep making sure that they are doing that instead of the 10,000 requests with respect to medals they get, that it does not necessarily take the attention it deserved. I can assure you it is getting that attention now.

Senator THOMPSON. Do you think we have gotten their attention?

Ms. LISTER. We have everybody's attention.

Senator THOMPSON. The Army was briefed last May, I believe, by the GAO of the essential facts of this entire incident, were they not?

Ms. LISTER. That is correct.

Senator THOMPSON. The GAO report was released in April of 1995. How much longer, now that we all basically agree on the facts and you agree with the GAO report, and you have had that now essentially for over a year, how much longer do you think it will take the Army to act with regard to the personnel actions in this case?

Ms. LISTER. I hope not too much longer. One thing that happened, and this was on legal advice, we held off forwarding anything to the Commander of the Military District of Washington until we had the final GAO report. I do not think the Army knew it would take quite as long as it did to get that final report. So some of the delay was our waiting to see if there was anything in that report which would be significant, and, of course, the tapes are quite significant. So that was why there was that delay.

My understanding is that the process will move fairly quickly now, but, of course, we have to give the individual involved due process and he has asked for an extension of time.

Senator THOMPSON. The Army knew about the tapes back in May of 1994?

Ms. LISTER. That is correct. That is when we heard them. I was there when we heard them in May of 1994, but we did not have a copy—

Senator THOMPSON. What can we say when you say "under review"? You know by now that people will look at that kind of response from the Army or the military or any representative of Government, for that matter, on something like this, under review, under consideration, we will do the right thing eventually and get back to you, it is equivalent to a black hole. People have no confidence in that kind of a response. I assume you appreciate that fact, and since the facts have been on the table all this time, who has to make these decisions? How many people does it have to go through? What is the problem here?

Ms. LISTER. I think the Army was being cautious about the rights of individuals, and I can assure you, knowing General Griffith, that he would not have let this matter fall into a black hole.

General GRIFFITH. Could I just pick up there, sir?

Senator THOMPSON. Yes.

General GRIFFITH. We had a terrible, terrible event take place on the desert the night of the 26th-27th of February. There is no question about that, and we are not proud of that. Unfortunately, you have tragic events in training and on the battlefield. We will do everything in our power to minimize and, if possible eliminate those in the future. But there were people who did a lot of good things during that very tragic event.

There was a First Lieutenant by the name of Wessels, who, I think, testified here earlier in the day, who was responsible for saving probably a number of lives, and he was given a Soldier's Medal. That is a very, very high award. He was recommended by my command to receive the Soldier's Medal. He was also recommended for a Bronze Star for his total service with the 1st Armored Division during the Gulf War, and he received a Bronze Star. He also received a superb OER—Officer Efficiency Report—for his service.

On the other side of the event, there were people who put themselves in harm's way trying to ascertain what was ground truth. Ground truth, I also would say, sir, is very easy now in a more sterile environment than it was for those soldiers that night. To look back and to understand what happened, I would just like to talk a little bit about the environment that night.

There were soldiers there on that spot who probably had not slept in 50 to 60 hours. We were in a shamal. There were very heavy sandstorms and there was heavy rain during this period. So the environment was not pleasant.

Now, that is not an excuse. Soldiers are trained, and that is what discipline and training are all about, to ensure that when you find yourself in those circumstances, you still do the right thing. Some people did the wrong thing, but there were some people who did the right thing. Some of the soldiers who were given awards do not deserve the awards they were given, but their acts were courageous and their acts were worthy of acknowledgement.

So I think, sir, that what you see in this circumstance is not that there is not a willingness to get to the truth and make sure that we ultimately do the right thing, but I think we also want to be fair to those young people out there who did put their lives at risk, who did do courageous things, and who did try to sort out the events on the ground and to minimize the potential for any other casualties occurring.

Senator THOMPSON. General, I appreciate that, but I would suggest that you not try to turn this into a defense of our brave young fighting people. I mean, it was our brave young fighting people that got wounded and killed out there that day because of some irresponsible actions that officers took. I am not second guessing their action.

We started off this hearing by pointing that out. We are not here to make your life miserable or second guess you. We appreciate you. We are trying to help you. We are trying to get you to make your life a little easier by—I am not talking about you personally, I am talking about the Army in general—by responding in a timely, decent way.

Timeliness in a case like this is more important than shuffling the ordinary paper. This family was lied to for half a year. That makes this a little bit more of a priority and makes it a little bit more important that it not get lost in the maze.

I can only imagine what it is like out there on the field, but Captain Friesen knows. Captain Friesen was there, too. He was there first.

General GRIFFITH. I think Captain Friesen performed superbly.

Senator THOMPSON. And he said that the situation was under control. He was mad as hell when Lieutenant Colonel Daly came blazing through there and opened fire on these people, and so were the other soldiers there on the ground. They knew that that was totally irresponsible action. So we are not criticizing those people. We are criticizing the people who are responsible for this.

General GRIFFITH. Let me give you my assurance, sir, that the review of the awards will not languish, and we will take appropriate action. And when we do, we will give you a full and detailed report on the actions taken.

Senator THOMPSON. There ought to be something we can resolve here today. I mean, we have the people here to resolve it. You just talked about the fact of Lieutenant Wessels and his brave action that he took. I mean, here is a young man who, as far as the record stands right now, received an admonishment for what he did. Now you are General Griffith and you are saying that he deserves a medal and received one.

General GRIFFITH. Sir——

Senator THOMPSON. Is there any reason to wait another year in order to remove the admonishment from this young man?

General GRIFFITH. Sir, I would like to respond to that. I was fully aware of Lieutenant Wessels' performance when this event took place. I think the record is clear. As his commander, I approved the award of the Soldier's Medal for his performance. He was courageous, he was responsible in his actions, and his actions saved the lives of other soldiers. As his commander, I readily approved the award of the Soldier's Medal, which is a very, very high award, for the actions that he took.

Also, I approved, and I think probably signed, his Bronze Star for his total service during Desert Shield and Desert Storm. I also have reviewed the Officer Efficiency Report that the Lieutenant received, and I can tell you, sir, it was an absolutely superb report, one that would certainly make him competitive for anything he intended to do as a soldier in the Army.

Sir, the record is clear on what happened in his command. I would not second guess the commander who wrote the letter, but I would say that, obviously, my judgment about his performance was different.

Senator THOMPSON. Who was in a better position to know what his performance was?

General GRIFFITH. Sir, I think that I was.

Senator THOMPSON. Why?

General GRIFFITH. Because I was the commander on the ground.

Senator THOMPSON. Ms. Lister, you have heard this. It sounds to me like the problem you have got is the letter came from a four-star general, the letter of admonishment. Where does the buck stop? You have heard from General Griffith. Where does the buck stop here?

Ms. LISTER. It is fine to have the buck stop right here. Let me say a couple of things, though. First of all, somebody gave then-Lieutenant Wessels bad advice, because the other officers responded, which even if you are not supposed to do that, people do it and then the General reconsiders.

I have no doubt, judging by what happened with the reprimands, that General Burba would have reconsidered if he had heard Lieutenant Wessels' side of the story, and I think it is really tragic that Lieutenant Wessels was not given that opportunity.

I can say on behalf of the Secretary of the Army and myself, and I have read enough to know what Lieutenant Wessels did that night, that we would not have given him a letter of admonishment, whether it was an official document or not. I will do something to erase that. It is not on the record, of course. It is only on the record because of all these events. Normally, a letter of admonishment is a personal thing that does not go into anybody's official records, and we will do something about that.

Senator THOMPSON. Well, apparently it did not go into his record but it went into his heart.

Ms. LISTER. I understand that.

Senator THOMPSON. The letter says, your failing may have indirectly contributed to this tragic incident. Of all the testimony we have heard today and all the different levels of responsibility from these officers, he received this from a four-star general who did not know anything about him or what he did, who was operating on second- and third-hand, false information. You are admonished for your inattention to detail.

Now, can you assure us that you will cause this to be rescinded and this young man apologized to?

Ms. LISTER. I will do what I can to make that happen, and I, myself, feel it was inappropriate——

Senator THOMPSON. I thought the buck was going to stop with——

Ms. LISTER. It is. Since I did not write the letter, it is hard for me to make someone who is retired rescind it, but I will personally talk to General Burba.

Senator THOMPSON. I am talking about the Secretary of the Army and I am talking about you.

Ms. LISTER. I will certainly put my own—I will send him a letter that says, with my position and since I do have authority to deal

with military personnel issues, that my view of the situation is that the letter has been revoked.

Senator THOMPSON. And apologize to him?

Ms. LISTER. Certainly.

Senator THOMPSON. Let me ask you about Colonel Daly. We know that Colonel Daly received the Bronze Star and it was awarded on the same day that these other medals for valor were received for the other two men in his vehicle. When General Burba made his decisions with regard to not putting these in certain files, as I recall, he also said, in effect, make sure these people do not get medals, did he not?

Ms. LISTER. He certainly said, make sure this is referred to the Adjutant General so that all the medals involved are reviewed. Unfortunately, that was not done and I have asked why and nobody knows. It was because it went in two different channels and it just was not done.

Senator THOMPSON. Of course, by then, Colonel Daly had already received his medal.

Ms. LISTER. That is correct.

General GRIFFITH. Sir, could I just pick up on this?

Senator THOMPSON. Yes.

General GRIFFITH. And again, this is not being defensive. This is to bring a little more clarity, hopefully, into this story.

I am sure you are familiar with the fact, sir, that we go back and find some soldier, even today, who did something in World War II or in the Korean War that was deserving of recognition and the soldier is just now being recognized, and many are never recognized for what they did.

We have all had the experience over our careers of seeing soldiers ultimately not getting the awards that they are entitled to. So one of the things that we committed to do and did, sir, in the Gulf, that I think was the right thing to do, I know I made a personal commitment to my soldiers that there would not be a soldier on an airplane going back to Germany, where my division came from, without his award packet in hand—is that we would have soldiers recognized for their accomplishments before we went back to our home stations, before we went back to Germany and back to the CONUS sites. So there was a very, very aggressive effort made to ensure that awards were completed and given to the soldiers before they departed the desert.

That is not an excuse, sir, but I will tell you that the XVIII Airborne Corps, which is the unit the 3rd Regiment was a part of, was very quickly pulled out of their positions after the war and started back to the States.

Senator THOMPSON. General, I appreciate that, and I must say, you did an excellent job in expediting those awards. I am not talking about you specifically, again. And I appreciate what you are saying, that people who deserve awards ought to get them. But look at this case. Look at this history here. The history of this case ought to guide us in the future.

Sergeant Fielder was shot and killed on February 27. By March 4, and March 6, recommendations for medals were submitted for those soldiers involved in killing him, 2 days before the boy was buried. So I would say you moved pretty expeditiously to get those

medals processed. I would not worry about that part of it. What I would worry about is doing the right thing now in rescinding those medals that even you say were not merited at the time.

General GRIFFITH. Yes, sir, and we will do that. I was trying to give you a flavor for what would have caused a commander to make that type of error, sir, that allowed that to happen.

Senator THOMPSON. All right, sir. But we know now that the medal was awarded to Lt. Col. Daly. After that, General Burba said in his review, make sure, in effect, no medals are awarded. That slipped through the cracks. We know now that he let stand the reprimand, that Colonel Daly was actually reprimanded for the actions that took place there that night. Now, in light of that and all the other facts surrounding this case, what can you tell us today about what you intend to do as far as the award given to Colonel Daly?

Ms. LISTER. That award is being reviewed by the Commander of the Military District of Washington as he looks at all the circumstances surrounding that tragic incident.

Senator THOMPSON. We have been listening to the circumstances surrounding that tragic incident now all day. Have you been listening to the testimony?

Ms. LISTER. No, sir, but I have heard——

Senator THOMPSON. Do you not think that might have been a little bit helpful? I do not think you could have sat here and listened to what the rest of us have listened to and come to that kind of a response as to what you intend to do.

You agree with the GAO report. The GAO did an excellent job. You said that. You basically, essentially agree with everything they have got in it. They fought Colonel Daly's activity up one side and down the other. He has been reprimanded. Colonel Burba said that these people should not receive medals. We know all that. We have been knowing all that. You were briefed by the GAO back in May of 1994. Is that the response you want to leave this Committee with, that it is under review?

Ms. LISTER. Senator, I think what we have to remember is that whatever our view of the facts, and GAO's view is very consistent with that of the Army, GAO also took note of the fact that we do have to worry about due process for those accused of being responsible.

Senator THOMPSON. We all believe in due process, but you are giving due process a bad name.

Ms. LISTER. Unfortunately, that is sometimes the case when due process when we feel we know the facts.

Senator THOMPSON. I can assure you that this will not fall into a black hole, and I would encourage you to make life a little easier on yourself and come to some kind of closure on this.

Ms. LISTER. I hear you loud and clear, Senator, and we certainly intend to do so.

Senator THOMPSON. Let me ask you about the death notification. You expressed your regret about that, and I appreciate your candor in that regard, but I will push it a little bit further and ask you why you think it took the Army 6 months to tell these parents the truth.

Ms. LISTER. In looking at it, and it is not just regret, frankly, I was shocked, not being around when that happened, there were a lot of circumstances that contributed to it. One was that we have two chains with which to notify higher authorities of a death. The proper information went up through the chain of command, that Sergeant Fielder was killed as a result of fratricide.

The proper information that was apparently attached to his body bag somehow got misplaced, and so the right information did not go back as soon as it should have. That is what I gather from the written record.

Beyond that, I understand that there were problems with other fratricides, where the Army did not discover until it found uranium traces that, in fact, the deaths were caused by friendly fire and not by Iraqi troops, which, I understand, did not have the same equipment and, therefore, the same tracers would not be found on the vehicles.

So the Army made a decision to notify everyone at once of the true facts when it was sure that it knew the true facts. I believe that was a mistake, but I was not there, so I can only say it was done that way for what I believe to have been good motives. They did not want to put people through unnecessary pain of getting the facts piecemeal. But that is something we have learned from and that is the only thing I can say positive about that. There is nothing positive to say about not giving families the truth.

Senator THOMPSON. Was there a decision to wait until a certain date, 6 months afterwards or any length of afterwards, to notify all the families of friendly fire victims at the same time?

Ms. LISTER. My understanding was what happened was there was an investigation going on of these other deaths, which, at first, they thought were not friendly fire. I know this from reading the testimony. There were hearings on that whole casualty notification process.

Senator THOMPSON. General Griffith, can you contribute to that?

General GRIFFITH. Yes, sir. I believe we lost 21 soldiers in what we call fratricide, friendly fire. We were victims of our own commitment to determine absolute truth and to report absolute truth. I think our motives were right, but I think our procedures were poor.

There was no doubt in my mind on the morning of the 27th, that Sergeant Fielder had died from fire received from the soldiers of the 3rd Armored Cavalry Regiment. I did not need 6 months of investigation to make that determination. As his commander, I knew he had died at the hands of soldiers of the 3rd Regiment.

The decision was made in Washington and the Pentagon that we would investigate thoroughly every incident of friendly fire and that we would be absolutely certain, when we notified the families that their son or daughter had died as a result of fratricide, that we had all the facts. I personally think that is the wrong approach. If I were here today and we had another Desert Storm, I would argue to let the commander on the ground make the determination and trust the commander on the ground to make the appropriate call.

So yes, sir, I think our intent was good. I think our execution was poor.

Senator THOMPSON. General Griffith, Ms. Shelton and Mr. Fielder have returned the medal that was awarded their son. We would request that you take their medal and ask you, since the Bronze Star awarded to him has been returned by the family, will you consider making the more proper award of the Soldier's Medal?

General GRIFFITH. Yes, sir.

Senator THOMPSON. Will you do that?

General GRIFFITH. Yes, sir. That is the more appropriate award for Sergeant Fielder's actions.

Senator THOMPSON. And for anyone else involved in a situation that did not involve enemy forces, correct?

General GRIFFITH. Yes, sir.

Senator THOMPSON. I have several other things here that I was going into, but I really do not see the necessity for it. I think the facts are out and on the table. You have been forthcoming here today and we appreciate that. As I say, we are not here to Monday morning quarterback or second guess or anything. You are what makes this country strong, and we appreciate you. We appreciate all of you. But we just have to take care of these situations when they come about.

This town should have learned a long time ago that trying to delay the facts or not face up to the facts and all of that is the worst thing in the world you can do because when it starts to unravel and it starts to come out, it goes all the way. I think you understand that and appreciate that.

I think we can all benefit from it in the future, and I think you have made some commitments here today that are real progress in that regard. Hopefully, that will contribute to the overall result from this hearing, that there will be less likelihood of these tragedies in the future. Some are bound to occur, as you point out, but when they do, we have the system and the people and the good will to deal with them in an appropriate and effective manner. We appreciate your testimony.

I am submitting a list of exhibits to be included in the record, and we will keep the record open for a period of 30 days for additional material.

[The list of exhibits appears in the Appendix on pages 80 to 202.]

Senator THOMPSON. This hearing is adjourned.

[Whereupon, at 2:55 p.m., the Subcommittee was adjourned.]

APPENDIX

PREPARED STATEMENT OF SENATOR SAM NUNN

Thank you Mr. Chairman. Today the Subcommittee will consider the actions taken by the Army following the tragic friendly fire incident during the Persian Gulf War that resulted in the death of Sergeant Douglas Fielder and the wounding of Sergeant James Napier.

At the outset, I would like to express my sympathies to the parents of Sergeant Fielder—Mrs. Deborah Shelton and Mr. Ronald Fielder—who are with us today. Your son died in the service of his country. Tragically, his death resulted from weapons fired by his fellow American soldiers. Military service is a noble calling. Members of the armed forces take great risks in training and in operations in order to protect our freedoms. The risk of death from accident, error, or negligence is always present, but it is incumbent upon the armed forces to take every reasonable step in terms of training and doctrine to avoid harm from one's fellow soldiers.

The tragedy of Sergeant Fielder's death was compounded by the Army through misinformation related to you about the cause of his death, a series of defective investigations, and questionable decisions concerning awards and decorations issued in connection with the incident. These are the issues we are to address today.

The recent report issued by the General Accounting Office detailed a number of troubling findings regarding the AR 15-6 investigations. It stated the investigations were inaccurate and incomplete and were tainted by command influence. While I believe that, in large measure, the process works, some adjustments to the AR 15-6 process are in order. The services must be willing to assign responsibility, answer the tough questions and, by doing so, maintain the public trust.

As a result of the GAO report on this incident, the Army is conducting ongoing proceedings related to potential disciplinary and administrative action with respect to individuals involved in this incident. I know, Mr. Chairman, that you have endeavored to structure these proceedings so as to not interfere with the conduct of those proceedings.

The issues before us relate to lessons that can be learned from this incident and its aftermath for the future. In particular, we should endeavor to answer the following questions in this hearing:

First, what changes have been made in the procedures governing the conduct and review of Army investigations to improve their timeliness, quality and accuracy, to reduce the influence of command to ensure impartiality and to assign accountability?

Second, how can we improve the notification process for casualty information to preclude a repetition of the provision of erroneous information to families?

Third, what can be done to provide families with greater access to information?

Finally, what procedures can be implemented governing awards and decorations to ensure that their accuracy is unquestioned and that the review process takes into account the facts and circumstances surrounding the awards?

I believe the public must have faith that our armed services are capable of policing themselves with the same vigor and professionalism with which they defend our nation. I know that the Senate Armed Services Committee, on which I serve as Ranking Minority Member, has followed these matters closely and will be very interested in our discussion today. While the Subcommittee is focusing on a single incident, the findings and recommendations made here will have broader impact considering the number of recent high profile incidents. Thank you, Mr. Chairman.

PREPARED STATEMENT OF RICHARD C. STIENER

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss our April 1995 report¹ concerning our investigation of events leading to a fratricide incident during the Persian Gulf War. We also assessed the adequacy of U.S. Army investigations following the incident and investigated allegations that Army officials hindered those investigations or influenced their outcome. The fratricide involved engineers attached to the Army's 1st Armored Division (AD) and elements of the Army's 3rd Armored Cavalry Regiment (ACR). One U.S. soldier—Army Sergeant Douglas Lance Fielder²—was unintentionally killed; a second—Sergeant James E. Napier—was wounded.

In summary, several critical factors resulted in the fratricide. The 3rd ACR's operation plans and operation orders were incomplete and confusing, in part, because they did not contain current intelligence information. Further, coordination along the U.S. Army Corps boundary line had disintegrated resulting in elements of the 3rd ACR crossing into a sector known to be controlled by the 1st AD. More importantly, the 3rd ACR commanders did not maintain command and control of their units.

The 3rd ACR's AR (Army Regulation) 15-6 investigation of the incident, which consisted of three investigative efforts, found the 3rd ACR commanders not responsible for the incident. We question the completeness and accuracy of these investigations. However, we found no evidence of intentional document destruction, witness intimidation, or witness retaliation.

The AR 15-6 investigation was reviewed by the Forces Command Staff Judge Advocate, who recommended that three 3rd ACR officers be reprimanded and the engineers Executive Officer be admonished. However, at the discretion of the Commander in Chief, Forces Command, two reprimands were not made part of the officers' official military personnel files, the third was withdrawn, and the admonishment was allowed to stand.

Further, we determined that several 3rd ACR personnel received heroism awards, related to the incident, that were based on misleading statements and inaccurate information.

THE INCIDENT

On August 2, 1990, Iraqi military forces invaded the emirate of Kuwait. They refused to withdraw by the United Nations-imposed deadline of midnight, Eastern Standard Time, January 15, 1991.

U.S. and allied forces thus implemented Operation Desert Storm on January 17, 1991, beginning with an extensive air campaign. The ground war began on February 24, 1991, and ended February 28, 1991, when allied commanders declared a cease-fire.

At approximately 2:30 a.m. (Persian Gulf Time) on February 27, 1991, near Umm Hajul, Iraq, elements of the 3rd ACR, while attacking an Iraqi airfield, crossed a U.S. Army corps boundary line into a sector known to be controlled by the 1st AD. According to the I Troop Commander of the 3rd Squadron, Captain Bodo Friesen, he initially ordered the gunner of his M1A1 Abrams Main Battle Tank to fire warning shots away from suspected Iraqi ground troops. Those troops were instead the engineers of Charlie Company who were awaiting recovery of their disabled vehicle. The two engineers who were observing the 3rd Squadron's vehicles stated that they attempted to identify themselves before and after they were fired upon and they saw no warning shots. They claimed the first shots were fired directly at them. Immediately on firing the warning shots, Captain Friesen's tank driver and gunner reported return fire from the engineers' position, a claim the engineers and other 3rd Squadron troops dispute. Captain Friesen ordered his gunner and two Bradley Fighting Vehicles (Bradley) to fire. A cease-fire was then called. Sergeant Napier was wounded during this firing sequence.

While I Troop elements were developing and engaging the targets, the 3rd Squadron Commander, Lt. Colonel John H. Daly, Jr., moved into the engagement area. Once at the scene, he did not ask for Captain Friesen's assessment of the situation, which at that point appeared to the Captain to be under control. In addition, when one of two troops riding in Lt. Colonel Daly's Bradley asked to dismount in order to confront the suspected Iraqi troops, Lt. Colonel Daly dismounted the two without coordinating his actions with Captain Friesen or any of his subordinate units. This dangerously exposed the dismounts to the risk of fratricide. Further relying on his

¹ *Operation Desert Storm: Investigation of a U.S. Army Fratricide Incident* (GAO/OSI-95-10, Apr. 7, 1995).

² Corporal Fielder was promoted posthumously to Sergeant effective Feb. 26, 1991.

Bradley gunner's assessment, Lt. Colonel Daly ordered his gunner to fire at an unconfirmed target. Specialist Fielder was killed during this firing sequence. Seconds before the Bradley gunner fired, 1st Lieutenant Kevin Wessels, the engineers' Executive Officer, had fired a green star cluster to illuminate the area. Unknown to Lieutenant Wessels at the time, a green star cluster was a daytime ground-to-ground antifratricide recognition signal.

We estimate that the time between the first shots and the fatal shots was 7 minutes 15 seconds. We also estimate that 25 minutes elapsed between when I Troop, 3rd Squadron, first misidentified the engineers and their identification as U.S. troops.

Among the critical factors resulting in the fratricide were the 3rd ACR's Operation Plan and Operation Order for the February 27, 1991, mission; they were incomplete and contained contradictory, outdated intelligence information about enemy presence. Further, coordination between the VII Corps and XVIII Airborne Corps along the boundary had disintegrated. In addition, maps used by the 3rd ACR commanders and troops in preparation for the mission were outdated and did not accurately depict the 3rd ACR's objective. Communication failures—from the 3rd ACR through the squadrons to the troops—also contributed to the confusion leading to the incident.

However, of greater consequence, both the 3rd ACR Commander, Colonel Douglas Starr, and the 3rd Squadron Commander, Lt. Colonel Daly, failed to maintain command and control of their subordinate units. They did not ensure subordinates' knowledge of their southern boundary, past which they knew friendly forces might be located. They did not determine their and their units' positions relative to the boundary. Furthermore, Lt. Colonel Daly did not abide by the stated rules of engagement, which were not to fire unless fired upon and not to fire below the boundary.

INCOMPLETE, INACCURATE INVESTIGATIONS

Within hours, the 3rd ACR initiated an AR 15-6 investigation. By regulation, such investigations are to be thorough and impartial and make recommendations as warranted by the facts. The first Investigating Officer, in both his initial investigation and his subsequent reinvestigation, found that all personnel had acted responsibly and recommended that all be absolved of any criminal or administrative responsibility for the incident. The 54th Engineer Battalion Commander and the VII Corps Staff Judge Advocate reviewed the results of the first two investigative efforts and raised additional questions. As a result, in October 1991 the XVIII Airborne Corps directed that a supplemental AR 15-6 investigation be conducted. The second Investigating Officer concurred that all involved individuals had acted responsibly and recommended that they be absolved of all responsibility for the incident.

Among other shortcomings, both Investigating Officers overlooked numerous documents and other information, including an audio tape recording of the incident that we located. They did not elicit evidence that some 3rd Squadron personnel—including crew members aboard the 3rd Squadron Commander's Bradley—had recognized U.S. vehicles before the fatal shots were fired. Both misstated facts, such as that the engineers were not wearing Kevlar helmets or Load Bearing Equipment that would have aided identification. Neither Investigating Officer attempted to confirm statements concerning return fire. Neither investigators' conclusions and recommendations—which absolved all participants of any responsibility—were supported by the evidence available.

Later, a Forces Command Staff Judge Advocate, at the direction of the Commander in Chief, Headquarters Forces Command, performed a legal review and analyses of the report of investigation. He stated to us his supposition that the second Investigating Officer had a "skewed" objectivity and a predetermined conclusion concerning the case. This coincides with the results of recent GAO and Department of Defense (DOD) studies that questioned the independence of command-directed investigations.³ That type of an investigation, according to a 1994 DOD study, is "most subject to abuse"; and the investigators who conduct them "are more subject to command influence."

The Forces Command Staff Judge Advocate recommended reversing the two Investigating Officers' findings, noting, among other failings, the involved 3rd ACR officers' "negligent" actions that placed their soldiers at risk and their "dereliction of duty" for assuming that personnel in a rear area were enemy. Based on his rec-

³*Military Training Deaths: Need to Ensure That Safety Lessons Are Learned and Implemented* (GAO/NSIAD-94-82, May 5, 1994) and "Report of the Advisory Board on the Investigative Capability of the Department of Defense," 1994.

ommendations, three 3rd ACR officers were issued letters of reprimand; the engineers' Executive Officer was issued a memorandum of admonition. After those reprimanded replied to the reprimands, the Commander in Chief, Forces Command, General Edwin H. Burba, at his discretion, directed that two reprimands not be made part of the officers' permanent military files and that the third be withdrawn.

NO EVIDENCE OF INTENTIONAL HINDRANCE IN INVESTIGATIONS

During our investigation, we interviewed over 108 current and former U.S. Army and Air Force personnel who were directly or indirectly involved in the February 27, 1991, fratricide incident. We also reviewed, among other items, records and documents at the corps, division, regimental, and squadron levels; the entire AR 15-6 investigation and its reviews; and two related U.S. Army Inspector General investigations. We found no evidence of intentional document destruction, witness intimidation, or retaliation against witnesses.

QUESTIONABLE HEROISM AWARDS

During our investigation, we learned that heroism awards related directly to the fratricide incident had been given to three officers and several men of the 3rd ACR. These awards were based on misleading statements and misrepresentations made by the 3rd ACR Commander, Colonel Starr, and the 3rd Squadron Commander, Lt. Colonel Daly. Award support documents for the officers referred to "enemy" presence and "hostile fire" during the fratricide incident. Two of the awards indicated the actions had occurred at an airfield about 28 kilometers from the incident site. In May 1994, we briefed the Army on our investigative findings, including those concerning the heroism awards. Following that briefing, the Army Office of Inspector General (OIG) analyzed the awards. In August 1994, the Army OIG requested the Assistant Secretary of the Army for Manpower and Reserve Affairs to revoke the awards as the "award recommendations revealed that they were not in contact with an armed enemy."

REVIEW OF ARMY INSPECTOR GENERAL'S INVESTIGATIONS

We also assessed the adequacy of two U.S. Army OIG investigations related to this incident. The first investigation focused on allegations of an intentional cover-up by Army officials in the reporting of the friendly fire death of Sergeant Fielder. After careful review, we believe that the evidence the Army OIG found supported its conclusion that no one within the Department of the Army intentionally withheld or attempted to cover up the friendly fire death of Sergeant Fielder. We also agree with the OIG's conclusion that instead, systemic problems within the Army's notification process—including poor communication and training of personnel—caused confusion and resulted in suspicions of a cover-up.

The OIG's second investigation addressed allegations of abandonment and cowardice on the part of the commanding officer of Charlie Company, 54th Engineer Battalion. After review, we believe that the evidence the OIG found supported its conclusion that these allegations were not substantiated.

We also reviewed the Army OIG inquiry into the heroism awards for its content. Even though the Army OIG recommended the revocation of the awards, it indicated that it had found "no evidence that any individual falsified information in the awards recommendations." However, we found that several of the support documents justifying the awards contained misleading statements and misrepresentations that were submitted by those directly involved in the fratricide incident.

RECOMMENDATIONS

In our April 1995 report, we recommended that the Secretary of the Army (1) re-examine for their appropriateness, the disciplinary actions taken regarding this fratricide incident and the disposition of those actions and (2) follow up on the Army OIG request that improperly supported awards for participation in fratricide incidents be revoked. At this time we have not received an official response to our recommendations.

This completes my prepared remarks. I would now welcome any comments or questions that you may have.

PREPARED STATEMENT OF KEVIN J. WESSELS

My name is Kevin Wessels. During Operation Desert Storm, I was a first lieutenant attached to the 54th Engineering Battalion, United States Army. We were responsible for moving ammunition and other logistics support for the 2nd Brigade as it advanced in the war. I also had the privilege of commanding Corporal Lance Fielder and three other enlisted men during the devastating attack on our position that is the subject of this hearing.

On February 26, 1991, our M548 ammunition carrier broke down. While awaiting recovery, we pulled off to the side of a main thoroughfare known as a "log line" or logistics line. Although this seemed to be a relatively safe position, since American trucks were continually passing within 50 feet of us for most of the night, I still posted a two-man guard. In the early hours of the morning, those guards recognized approaching American vehicles, including several Bradleys and a tank. To this day I will never understand why if we took the time to watch and listen to the approaching vehicles, they were unable to look at us more carefully before firing.

At approximately three o'clock in the morning of February 27, 1991, I was awakened by the sound of gunfire and one of my men screaming, "Sir, the Americans are shooting at us!" Within seconds, another round of fire ripped through our vehicles as we scrambled for cover. It was at this point that one of my men, Sergeant James Napier, was hit in the leg as he tried to escape. A trailer loaded with ammunition started to burn, with some of the rounds detonating as the fire spread.

Specialist Craig Walker ran to Sgt. Napier and carried him to safety near Corporal Lance Fielder and Specialist Robert Driben. While Corporal Fielder, Specialist Walker, and Specialist Driben attended to the wounds sustained by Sgt. Napier, I ran back to my Humvee (HMMWV) and got on my radio, announcing on several different command frequencies that we were being fired upon by our own troops.

When the third round of fire started, I crawled back behind the M548 ammunition carrier.

When the firing stopped, I ran back to the Humvee, trying desperately again to reach someone over the radio who could help us. I had no luck in contacting anyone.

When the fourth round of fire began, I grabbed a flare and crawled back behind the M548 ammunition carrier. When the shooting let up, I fired the flare. I hoped that it was a parachute flare, which would illuminate the area long enough for us to be identified as Americans. It turned out to be a green star cluster, and extinguished quickly. Later on I would be criticized for using the daytime friendly forces recognition signal, a green cluster, instead of the nighttime signal, a white cluster. Not only had I never been briefed on these signals, I didn't even have a white cluster. The truth is, I was trying to light up the sky in attempt to save my men, and I was too busy to take an inventory of my pyrotechnic devices.

Soon, a fifth blast of gunfire came from the Americans. When the barrage stopped, I saw American armored vehicles moving to our side. I quickly recognized that we would no longer have the protection of the M548, but would be caught in a deadly cross-fire if the American unit maneuvering to our side began firing. I became acutely aware of the fact that if I didn't do something immediately, all five of us would surely be killed. At this point I turned on my red-lensed flashlight, stood with my hands over my head, and walked slowly forward to the nearest Bradley armored vehicle. The gunner of the Bradley, who had his 50-caliber machine gun pointed straight at my chest, yelled, "You better be American!" I will spare you my initial response and simply say that he was stunned to find out that I actually was.

A captain from the 3rd Armored Cavalry Regiment (3rd ACR), whose guns had been firing at us, walked back with me to where my men were located. It was then I learned that one of my finest soldiers, Corporal Lance Fielder, had been hit twice during that last round of fire. I was deeply saddened by the realization that Lance Fielder had been killed. It was a tragedy that never should have happened.

I immediately called our brigade Medivac. I could only get one helicopter and, in accordance with Army policy, they would not carry a dead soldier and a wounded soldier in the same helicopter. The 3rd ACR captain called for their helicopter that would take Sgt. Napier and Cpl. Fielder together. I filled out a Casualty Feeder Report and stated that Cpl. Fielder had been killed by friendly fire. The helicopter apparently blew the first report away, so I filled out another one, again stating that the death was a result of friendly fire. I was shocked to learn that Cpl. Fielder's parents were later told that he had been killed by Iraqi forces.

Within a few hours, an AR 15-6 investigation into this incident began. Captain David Jacquot was assigned the task of conducting the investigation. He did not ask me any questions. He simply requested that I write a statement describing the incident. That was the only time I have been permitted to make a full statement about this incident until this Senate hearing. The remainder of the Army's investigation

was very frustrating as I felt I was being questioned in such a way as to ensure certain specific answers. For example, several months after the incident, I was interviewed over the phone by Brigadier General Nicholas Halley. He asked me about the different colors of flares and lights that are used as recognition signals. He did not seem interested at all in the discrepancies and conflicting statements I attempted to point out that occurred during the AR 15-6 investigation. He just said, "Thanks very much," and hung up. I felt General Halley was looking for specific answers that would relieve the 3rd ACR of any responsibility for their numerous blunders.

Upon reading the various reports of this incident, I was astounded to learn that, in an attempt to justify their actions, members of the 3rd ACR claimed my men returned fire. Let me make one point very clear. Neither I, nor any of my men, ever fired a single shot. Why would we? We knew that the soldiers shooting at us were Americans. At no time did Captain Jacquot or anyone else ever check even one of our weapons to determine if they had been fired. If they had, they would have found that the weapons were full of dust.

In late 1991 and again in early 1992, I was interviewed during an Army Inspector General investigation that I was told was being conducted to determine the facts and circumstances surrounding the reporting of the death of Corporal Fielder. However, by April 20, 1992, the focus of the investigation had shifted to investigating "allegations of improprieties related to command and control issues within the 1st Armored Division and the 54th Engineering Battalion." In other words, my actions were now being investigated. Two weeks later, I was slapped with a Letter of Admonishment from General Edwin Burba. General Burba wasn't even in my chain of command. Unlike others who had received letters of reprimand, I was given no opportunity to respond. This letter was devastating to me. It stated that I may have indirectly contributed to the death of Lance Fielder. Since the day I received that letter, those words have been etched in my mind. I ask each of you to imagine how such a letter would affect you, after seeing your men and equipment torn apart by gunfire coming from what you knew to be other American forces. The actions I took that night were with one single thought in mind—do whatever it takes to save the lives of my men from an awesome amount of American firepower. As I sit here today I can assure this panel, the Army, and most importantly, the parents of Lance Fielder, that I did everything in my power to protect my men and stop the attack. I will regret for the rest of my life that I was unsuccessful in that effort.

Thank you for the opportunity to appear before you today. I will be happy to answer any questions you may have.

PREPARED STATEMENT OF BO H. FRIESEN

I appreciate the opportunity to appear before the Subcommittee here today, and I am very grateful for the fact that the Subcommittee is reviewing this tragic incident. Quite simply, this never should have happened. I will give you my viewpoint of what occurred that night. I was a member of the 3rd Armored Cavalry Regiment (or 3rd ACR), and the commander of nine M1A1 Abrams tanks along with twelve Bradley Fighting Vehicles. It was my tank and two Bradleys who first approached the engineers and their disabled vehicles.

It is important to state that I deeply regret the events of that night, and like Kevin Wessels, I will have to live with that memory for the rest of my life. But it is also important to note that given the situation, and the information with which I was provided by my commanders, I acted with extreme caution. Let me explain what I mean.

Our objective that night was to seize the Umm Hajul airfield. My squadron commander, Lt. Col. John Daly, briefed me that our unit would be the most forward one in the area. Further, I was told that the airfield we were attacking was being defended by a heavily dug-in battalion of Iraqi soldiers. Lt. Col. Daly never even mentioned the possibility of friendly forces in the area.

Lt. Col. Daly directed the use of a diamond assault formation. The significance of this is that there is no reconnaissance whatsoever out in front. This formation placed the maximum tank firepower forward. The sole purpose of this formation is to destroy confirmed enemy positions. This clearly indicated to me that we would not encounter friendly forces at any time during our operation.

Lt. Col. Daly sent the squadron on a blind attack into an uncertain area. This was a clear violation of basic tactical principles. The use of this type of formation alone confirmed in my mind that we would likely encounter heavy resistance by Iraqi forces on the airfield we were approaching.

As we were approaching the airfield, my troop discovered what I now know to be Lt. Wessels's unit. Based on the intelligence briefings I had received, I assumed that

he and his men were Iraqi soldiers. Initially, after obtaining Lt. Col. Daly's permission, I ordered that warning shots be fired. After this it is my firm belief that we began receiving return fire from the suspected enemy force. As we just heard from Kevin Wessels, this was not the case. All I can offer to him, and his men, is that we truly believed that to be so.

We then returned fire in order to suppress what we thought were enemy forces. After we had expended what I believed to be the maximum amount of necessary force, I ordered a cease fire. The soldiers, who we still thought were Iraqis, no longer posed a threat. They were silent. We were heavily armed and could have easily destroyed the small group of soldiers in a matter of seconds. They had no place to escape to, we had them contained on flat terrain and could easily have captured them if they had tried to escape. Even assuming they were Iraqis, shooting them at this time would have been totally unjustified.

At this point, confusion broke out as Lt. Col. Daly's command group, which included three Bradleys and a number of smaller vehicles, pulled up unannounced on my left. Some of my men believed his vehicles were Iraqi and nearly fired on them. Another disaster was narrowly averted. Later, in a similar display of poor command judgment, Lt. Col. Daly allowed two of his men to leave his Bradley and cross immediately in front of our guns. One of his soldiers soon became lost and wandered over to another Bradley. For that brilliant display of military navigation, I believe he received the Bronze Star with "V" device for valor. We had no idea where these men came from: we initially thought they were Iraqis, and once again, we came within a razor's edge of shooting them.

As I continued to monitor the situation, I could see clearly through my thermal sights one soldier in Kevin's unit assisting a fellow soldier to a safer location. Neither soldier was carrying a weapon. I heard Lt. Col. Daly's voice come over the radio screaming, "They're getting away! They're getting away!" A burst of machine gun fire erupted from my left and struck the soldier who had been helping his comrade. I later learned that this soldier was Corporal Fielder. I was furious. It became obvious that Lt. Col. Daly had disregarded and overridden my cease fire. If he hadn't, Corporal Fielder would still be alive today.

The mood within my troop got ugly. My soldiers were very angry about what had just happened. Several threats against Lt. Col. Daly came across the radio net, and I had to intervene to restore order.

To make matters even worse, Lt. Col. Daly came up to me about an hour after the shooting and said, "We have to keep this under our hat." His comments were overheard by some of my troops. I can only imagine the signal this sent to them. Several days later, I discovered that my fellow officers were under the false impression that we had destroyed an Iraqi force on the night this incident occurred. When I tried to correct this misinformation, Lt. Col. Daly took me aside and once again advised me to remain silent about what had transpired.

In reviewing the results of the subsequent AR 15-6 investigation, I learned that an officer assigned to the 3rd ACR stated that he had attempted to receive authorization to cross the corps boundary line in order to attack the airfield at Umm Hajul. This was denied by the 1st Armored Division because they had American supply trains in the area. That is exactly what Lt. Wessels was doing there. The officer stated that he briefed the 3rd ACR executive officer of this fact, who then passed it on to Col. Starr, Lt. Col. Daly's immediate commander. If Col. Starr ordered the attack on that airfield with knowledge of American supply trains in the area, then Col. Starr is as directly responsible for Corporal Fielder's death as is Lt. Col. Daly. I believe this to be exactly the case.

It is crystal clear that Col. Starr and Lt. Col. Daly were aware of both the corps boundary and the possibility of friendly forces in the area. Incredibly, they ordered and conducted a violent assault into the Umm Hajul area. I feel these were criminally negligent acts.

In sitting next to Kevin today and hearing him talk about his letter of admonition and the obvious effect it has had on his life, I feel compelled to tell this panel that as an eyewitness to the bravery of his actions, and the leadership he displayed, that letter is totally unjustified. The Army should withdraw the letter and apologize to Kevin.

To the family of Lance Fielder, and to Kevin and the men under his command, I can never express my true sorrow enough for the events that took place that night. I learned early in my career as a cadet at West Point that integrity and leadership are the elements most vital to commanding men in battle. This forum, and this investigation, looking into the true causes of these tragic events can go a long way to restoring the accountability and the integrity that must exist in our armed forces. You have my sincere thanks for that effort.

PREPARED STATEMENT OF DEBORAH SHELTON AND RON FIELDER

MS. SHELTON: Good morning, Mr. Chairman. I extend to you my appreciation for the opportunity to speak before your Subcommittee today. Every member of my family has asked me to offer you a heartfelt thanks for your support and service to us. Our decision to accept your invitation was, in part, based upon one simple principle that we believe is vital to us all. Liberty wanes, while we in silence or with other things to do, ponder what we value more than the liberty to speak. I consider your encouragement to provide testimony here an act of good faith in demonstrating the importance of a government willing to serve all people and ideas of merit. Among the traditional American liberties and ideals resides honesty, integrity and justice. These are well-proven tools for seeking truth. I ask you to apply them with skill today, not to understand my truth, but to find your own during this inquiry.

My son, Sergeant D. Lance Fielder, was killed in action by friendly fire while serving as a member of the United States Army during Operation Desert Storm. From the very moment of his death, the facts surrounding this tragedy were known accurately and in detail to all involved military personnel. However, what I have learned since Lance's death is that any truth related to this matter has been suppressed. That action was adopted by consensus and endorsed by segments within the Army officer corps, in accordance with an agreed upon plan.

The plan was simple. It contained only three parts:

1. Lie about how Sergeant D. Lance Fielder died.
2. Enhance the basic lie with arrogant bravado, claiming the participants in this action performed heroic feats.
3. Use the lie for personal gain by awarding medals for distinguished service, under fire, to conspirators and/or any participants.

NOTIFICATION ABOUT THE LOSS OF OUR SON

On Thursday, February 28, 1991, at 3:00 p.m., two members of the Army's notification team came to each of our homes simultaneously. They informed us that Lance had been killed while in combat with the Iraqis on February 26, 1991. On the following Saturday, March 2, 1991, we each received a Mailgram from the Army that read:

"This Mailgram is to confirm to you that your son, Specialist Douglas Lance Fielder, died in Iraq on 26 February, 1991, as the result of massive chest trauma, due to multiple gunshot wounds received, while engaging the enemy."

We buried Lance on Friday, March 8, 1991. I remember standing at the cemetery where we laid him to rest and thinking about my son and the others buried in that place. I thought about how we try to honor our fallen soldiers and how small a piece of ground they each receive in death. At that moment, the funeral service and the small piece of ground did not seem to be enough for Lance or for any of the others who had given their lives for their country.

MR. FIELDER: Several weeks after Lance's funeral, I received a phone call at 3:00 a.m. on May 2, 1991. The voice on the other end of the line said: "This is Specialist Mark Norwood. I served in the Army with Lance. I was a friend of his and I'm in Saudi Arabia now. The Army is lying to you. Lance was killed by an American unit. I can't talk any longer right now, but when I come home I'm going to tell you everything that really happened." The phone rang again about an hour later. This time it was a Captain Bowser, who was Specialist Norwood's commander. Captain Bowser told me Lance had been killed by an attacking American unit. He also told me that Lance would be receiving the Bronze Star with a "V" device for valor.

During each of these calls I was in shock. I could not think of any questions to ask, and it was very difficult for me to comprehend what I was being told. American soldiers had killed my son, but my country had already told me that the Iraqis did it.

These calls, which came in the middle of the night from my son's colleagues, were the only accurate "notification"—if it can be called that—that Deborah and I would receive for many months. The Army didn't provide us with official notification until August 1991, more than three months after Lance's colleagues called me with the truth. Waiting three months to hear something from the Army would prove difficult.

Shortly after I received the calls, I telephoned Deborah and explained what I had learned from Lance's friends. Our discovery that Lance had been killed by American forces caught us both completely off guard. As we would learn to our sorrow, we

were about to begin a process of grief and pain all over again. However, this time the fact of Lance's death came to us under a painful shroud of deceit.

I recalled a conversation with Specialist Ted Lane, the Army's official escort, that took place on March 7, 1991, the day before we buried Lance. When I asked about the circumstances of my son's death, Lane told us that he did not know. During a later visit by Lane, we would find out that this was not true. Ted Lane had known all along what the truth was, but he had been instructed not to discuss Lance's death with us, or to volunteer any information of consequence.

For more than three months after we first received the horrifying news from the soldiers in Lance's unit, we heard absolutely nothing from the Army about what happened. Absolutely nothing. You cannot imagine how unnerving it is to be told first that your son died at the hands of the enemy; then to be told off the record that he was killed by Americans; then to be told nothing.

The Army eventually decided to give us official notification about the cause of Lance's death. The Army called and told each of us that papers would be delivered at exactly 3:00 p.m. on August 12, 1991. We were each given a copy of the same letter and asked to sign for it. The letter read in part:

"Armored vehicles from another U.S. force strayed into your son's area. The soldiers in these vehicles mistakenly identified [Lance's] vehicle as hostile. They fired shots wounding one of the other soldiers. The soldiers with [Lance] dismounted their vehicles and formed a hasty defensive position, while [Lance] attended to the wounded soldier. As [Lance] was performing first aid, a second round of machine gun fire wounded him. [Lance] died bravely, giving aid to a fellow soldier, in the thick of battle, selflessly serving his country."

MS. SHELTON: The delivery of the notification letter was unusual, and it caught our attention immediately. We were told that the timing for the receipt of the letter was critical. This was stressed repeatedly as an important and vital element. Later, we discovered that we were only one of a large number of American families who unknowingly participated in a well-orchestrated event. The Army had decided, at one time, on one day, to inform all of the families whose loved ones had been killed by friendly fire of the real cause of their deaths. Thus, we were only one of many families across this country who were told at exactly 3:00 p.m. on August 12, 1991, that their loved one had been killed by friendly fire.

On that day, Army personnel fanned out across the country with military precision, executing the Army's notification plan by breaking the bad news to everyone in unison, months after the war had ended. The Army's tactic was to overwhelm the media with the magnitude of the event itself, while masking the real significance of the unusually large number of American deaths by friendly fire.

Death by friendly fire is a very sensitive subject. It had to be handled with great skill. If the Army had informed the families of the friendly fire victims of the cause of death in each instance as soon as possible, this would have created a long string of shocking disclosures over an extended period of time. And that would have harmed the Army, because as long as the story circulated in the press, reporters were going to be asking questions.

From a military standpoint, the story was big, the news was bad, and a negative impact in the media was certain. Since so many Americans were killed by other Americans in Desert Storm, the truth of that fact could not be hidden or avoided. The strategy required accepting one big, negative hit in the press, then letting the story die. By speaking all at once to each family victimized by friendly fire, the military limited to the greatest extent possible the envisioned outrage by the media. Duping the media was vital.

BEGINNING OUR SEARCH FOR THE TRUTH

We knew there was nothing that would bring back our son, but at the same time, we were forced to face certain realities. How was Lance killed by Americans? Why did the U.S. Army elect to lie to our family? Did they have something to hide? If that was true, what were they attempting to conceal? Making some notes on what was known to us at that time helped me to focus on three very important issues:

A. Why were Lance and a handful of men left alone in the desert in the first place?

B. What really took place out there, and how could American forces attack and kill other Americans?

C. Exactly what did happen to my son from the time he died until he came home?

It was clear to Ron and me that no amount of agonizing would get us the truth. I knew that for myself there would never be an end to the anguish until our family had the complete truth. I made up my mind to look for the truth until I found it. I began calling and meeting with people, requesting government documents, and writing letters. Over the last four years, I have placed more phone calls, written more letters, filed more FOIA requests, and contacted more people than I could count for you today. The search for the truth has been a heartbreaking four year journey through thickets of deceit, delay, bureaucratic incompetence, and callousness.

I began to consider how many people it takes to tell a really big lie and today I still do not know. However, I do know it only takes one to initiate the process. It would take some time for me to learn dishonesty, for this situation began in the desert a long way from where I stood. Yet it did not stop there, but moved instead with remarkable swiftness to savage our family. That same dishonesty gained strength with assistance from those who in time would elect to lie, obstructing the truth and also to protect themselves.

I soon discovered that our quest for the truth would require patience, diligence, and common sense. Patience has never been my best virtue. However, with enough determination, I would make up for that shortcoming in other ways.

As this Senate Subcommittee receives testimony from the witnesses here today, there is no doubt that many lingering questions remain. For example:

- Did the commanders involved benefit from this tragedy by sending our son home a hero? Did the risk involved in deceiving us initially about the cause of our son's death appear acceptable to the people involved?
- What happened to the "original" battlefield paperwork and other documents that disclosed the evidence of friendly fire?
- Were awards given or "forced" upon soldiers to keep them silent about the true facts surrounding Lance's death?
- Is there a direct, viable, and recognized relationship between awards for valor on the battlefield, and military promotions?
- Did one or more commanders involved in this friendly fire tragedy relinquish command by becoming directly involved in the attack?
- Did a heated argument, which verged on physical violence, occur at Colonel Starr's Command HQ immediately after this incident?
- Was Lieutenant Colonel Daly responsible for the actions of his gunner?
- Why doesn't the U.S. Military provide to the families of friendly fire victims full disclosure of its investigations?

THE ARMY ATTEMPTS TO INVESTIGATE AND EXPLAIN WHY WE WERE MISINFORMED ABOUT THE CAUSE OF LANCE'S DEATH

MR. FIELDER: On January 25, 1992, Colonel Waller from the Army Inspector General's office came to Nashville to tell us about an Army investigation into the reasons why we had received erroneous notification about Lance's death. Colonel Waller began the meeting by telling us, "Well, Murphy is alive and well." The first thing that flashed into my mind was, "It's too bad our son is not." We were stunned by his comment. He continued, saying "To compound a comedy of errors, who would have ever believed the one soldier this happened to would also be the one whose mother spent three weeks with him in Germany and these soldiers think she is their mother, too!" We just listened.

It is our opinion that Colonel Waller began his investigation with a predetermined conclusion, which Deborah feared would lead him to ignore the most troubling aspects of the notification issue. For example, Colonel Waller seemed to discount completely the testimony of a soldier who had pinned a death tag on Lance's uniform just before Lance was evacuated. That tag, which listed the cause of Lance's death as friendly fire, was missing when Lance's body arrived at the MASH unit where, with no information to the contrary, Lance was mistakenly listed as "Killed In Action" by Iraqi troops. The disappearance of the tag is apparently the reason why we were kept in the dark for so many months about the real cause of Lance's death.

WE RECEIVE THE INSPECTOR GENERAL'S REPORT

On April 20, 1992, we received a copy of the Army Inspector General's written report on its investigation of the notification issue. The report dealt in detail with the mechanics of the notification process and the shapes and sizes of various Army forms, but it only glossed over the facts surrounding what actually happened the night that Lance was killed. Deborah's fears were confirmed: Colonel Waller's report did not remotely resemble the verbal briefing that we had previously received from

him. The Inspector General's report was convoluted and misleading, but, above all, it seemed to confirm Colonel Waller's predetermined conclusions.

MS. SHELTON: Then and there, for the first time, I really began to understand "the rules of engagement" in the truest sense of the term. We were dismayed by the Inspector General's report, but decided to press forward to find out what really happened to our son. We had concluded by this time that the Army was completely incapable of helping us discover the truth about our son's death. For example, I called General Edwin H. Burba, who signed several reprimands that the Army gave after Lance's death, to inquire about those reprimands. A representative from General Burba's office called me back and said, "Quite frankly, madam, this is a military matter and none of your concern."

THE TRUTH BEGINS TO UNFOLD

We got an appointment at Senator Sasser's office in Washington with intent of requesting a GAO investigation into Lance's death and also the process of the entire investigation. In late April 1992, Ron and I traveled to Washington to meet with some of Senator Sasser's staff. After presenting our scenario and summary of the Inspector General's report and the dealings to date with the Army, Senator Sasser asked the GAO to review the case to see if an investigation would be warranted, this was in June 1992.

On November 2, 1992, we find out the GAO does in fact agree with us and sees clear need for an investigation. We were told that GAO would begin its work in January 1993. We later learned that the Army, through General Griffith, worked behind the scenes to hold up the investigation. By persuading Senator Sasser's office that he wanted to speak to us in person before the investigation started but then never calling us, General Griffith caused GAO to delay its work for nearly two months.

When Senator Sasser was defeated, it became obvious to us that we needed another Senator to take up our cause and to push for the publication of the GAO report. We appreciate more than words can say the able assistance of Senator Thompson, who has carried our cause forward. We know our state is fortunate to have him. The voters of our state chose well, and our family thanks him from the bottom of our hearts.

On April 22, 1994, GAO completed its investigation and we received a briefing. We learned then for the first time about the medals for valor that had been awarded to those who were involved in the attack on Lance's unit. We also learned of GAO's conclusion that Lieutenant Colonel John Daly, the commander of the unit that attacked Lance, failed to maintain adequate command and control over his squadron. GAO further concluded that Lieutenant Colonel Daly broke the rules of engagement that evening by firing at an unidentified target that was not firing back and that Daly knew—and failed to tell his soldiers—that there might be other Americans in the area. GAO also discovered that in the moments just before the attack, a soldier heard Lieutenant Colonel Daly report to his commander that Daly saw an American-made vehicle but thought it belonged to the Iraqis. These findings confirm what we have believed for a long time—that Lieutenant Colonel Daly's negligence led directly to the death of our son.

MR. FIELDER: I am a police sergeant in Nashville, TN. As such, I know the responsibility that goes with discharging a weapon in the line of duty. Military forces who kill the enemy are one of two things: disciplined and courageous, or undisciplined and dangerous. In my opinion, the factors critical in making this distinction are leadership and the ability to command. Within the scope of American justice and law enforcement, we have specific guidelines, which include accountability to the citizens of America.

In my capacity as Entry Leader on the SWAT team in Nashville, if I displayed such use of force in a similar situation, went to the wrong address, violated the rules of engagement, shot an unidentified person, and killed him, consequences for such actions would be swift. I can assure you there would be neither a medal nor a promotion. I would be immediately fired, charged with manslaughter or 2nd degree murder, and made to stand accountable. Failure of the Metropolitan Police Department to dismiss me immediately under such circumstances would undoubtedly result in a guilty verdict against the city for negligent retention.

Some may think that Deborah and I hate the United States Army and that our hatred for that institution has been our motivation. Nothing could be further from the truth. We can't hate the Army. If we did, it would be like hating Lance because he loved being a part of the Army. There has never been a soldier who was more proud of wearing the Army uniform. On the contrary, we care so much about the

Army that we have spent the last four years trying to help it realize the loss of integrity displayed in this matter. A very wise man has said in reference to this case that "This lie has done more harm to the military than a thousand truths would have done." Accountability and integrity in our military must be restored.

MS. SHELTON: GAO discovered that soldiers in Lieutenant Colonel Daly's unit received valorous awards for the attack and that those awards were based on misstatements and misrepresentations. In April 1994, GAO briefed the Army in detail about those improper awards and the lies that supported them. The Army response to the briefing typifies everything the Army has done in this case. First, the Army sat on the information for a year, and only took action one day before GAO's final report was released in the spring of 1995. The timing of the Army's action cannot be a coincidence. Second, when the Army finally rescinded the Bronze Stars with "V" devices that were awarded to the soldiers in Lieutenant Colonel Daly's unit, it simultaneously reissued Bronze Stars and Army Commendation Medals for Merit to those same soldiers. This says that "although we no longer think killing your son was a valorous act, it was a meritorious act."

This is appalling. It nauseates me to know that an American soldier would accept an award for valor based on a lie. Failure to accept responsibility is cowardice. And turning that failure into a career-enhancing event is an unspeakable act. As such, it tarnishes the honor of every brave soul who ever risked death by fighting for his or her country. It also breaks the hearts of those who love America. But, we know, brave hearts do prevail.

I understand lies, regrets, and mistakes. Having worked to find the truth in this tragedy, I have also learned to recognize deceit for personal gain, military commanders who do not command, and those who have no honor.

PREPARED STATEMENT OF LIEUTENANT COLONEL JOHN DALY

Mr. Chairman and Members of the Committee. Thank you for the opportunity to present my testimony before this committee. I hope that my comments and responses to your questions will assist in your task of understanding what happened in the Iraqi Desert four and a half years ago.

Sir, this is the first time I have been able to address Sergeant Fielder's family publicly. I want the Fielder family to know that I share their loss. From the moment of Sergeant Fielder's death, they have been in my thoughts and prayers. While confusion is normal in combat, the tragic combination of events that occurred in February 1991 resulting in the loss of their son is not something I take lightly. I want them to know that I share their sorrow and pain. I wish they could understand how utterly abhorrent I find that my actions and those of my subordinates have resulted in the death of a fellow soldier.

Mrs. Shelton in an anguished letter to me expressed her hope that I shared the hell she is going through. I want her to know that I empathized with her when she wrote,

"If there is a God, and I believe there is, I must trust him to make your journey for peace as difficult as mine."

She should know that my journey has also been a difficult one. No grief is as great as a Mother's grief and I do not presume to compare mine with hers. However, I do think of their anguish and pain daily. Any semblance of normalcy in my life is and will always be overshadowed by this loss.

One question I have heard repeatedly is why I have not contacted Sergeant Fielder's family directly to express my sympathies and to reach out to them. I can only tell you my reasons as I have told each official investigator and asked them to pass on to Sergeant Fielder's parents. Initially, I trusted the Army casualty notification system to handle the notification compassionately and properly through Sergeant Fielder's chain of command. Obviously, based on the 1992 House Armed Services Report, the Army let me and Sergeant Fielder's family down. I relied on the Army and VII Corps to do the right thing. You have other witnesses from the Army to explain the reasons the Army conducted itself that way. I will only say that I agree that it was a horrible way to handle this. The Fielders are understandably outraged at the way they were notified. We knew it had been friendly fire and we reported it immediately. The second reason I have not contacted them is that I have been under investigation from the moment it happened. Each time it looked like this had been resolved, another investigation began. My natural inclination toward compassionately reaching out was overshadowed by my responsibility not to discuss a case under investigation. I can, however, assure you that I have constantly reviewed and anguished over this decision.

The first issue I understand this committee is addressing is governmental accountability. I would like to address my own accountability in this case. I long ago accepted the responsibilities of command. When this incident occurred, offered to step down on the spot. My commander rejected this as he viewed that had a higher responsibility to the 1,000 men I was leading in combat. As I said in my letter to the Forces Command Commander, I understand that I as a commander am responsible for everything my unit does or fails to do. I have not attempted to escape those responsibilities, rather I ask that my actions be judged in light of the facts and circumstances as we knew them at the time. From the beginning, I have been forthcoming. I freely gave my open and honest assessments without requesting an attorney. I provided hundreds of pages of testimony, and I took responsibility for my actions. I encouraged openness from my subordinates in the belief that truth is the right policy. And, I have been reprimanded. And, this reprimand is publicly known and known throughout the Army and my profession.

Sir, much has been said that I am the son-in-law of a former Chief of Staff of the Army and as such have received special treatment or protection from the Army and less punishment than I deserve. But, it has not been widely publicized that I never met him. He died 3 years before I met my brother-in-law. My brother-in-law was a major and I was a captain at that time. General Abrams died 7 years before I married his daughter. He has been dead 21 years. I am the son of a general officer—who is also long dead. It has been said that I come from a long line of West Point graduates. This is true and we have a proud history of service to the Nation. I am not ashamed of my family. It is all very interesting and fills a few lines in a newspaper article. It is not germane to either the issue before you or to the performance of my duties. It is not germane to the issue of how the Army investigations were conducted or the conclusions drawn or the punishment received.

It has been said that I am in a career enhancing job in the Pentagon. The truth is that I am in a sort of military purgatory. Yes, my name goes forward for consideration for schooling and promotion; independent boards of officers have repeatedly selected me for these, but schooling and promotion are blocked. Normally, I would have gone to school three years ago and been promoted this summer. These will not come to pass until this case is resolved, if at all. For the past three years, I have been at the same desk doing the military equivalent job of one of a research assistant. This is not a career enhancing position. In my experience, over 50% of the Lieutenant Colonels in the Pentagon leave the Service from the Pentagon. I have lived with constant allegations of lying, receiving favoritism, influencing others, scapegoating, and covering up. Although these allegations are not true, they impugn my integrity and destroy my reputation.

I think it would be helpful to remember why we were there—half way around the world. We were sent by our country to deter a further Iraqi attack on Saudi Arabia. Then, we were told to attack and destroy Saddam Hussien's Army for the purpose of freeing Kuwait. This was the largest Armored maneuver force since Inchon. My unit alone, the 3d Squadron, had over 1,000 soldiers on about 100 combat vehicles (40+Tanks, 40+Bradley Fighting Vehicles, 6 Howitzers, plus supporting equipment). This was mechanized warfare on the grandest scale ever attempted. We expected a large number of casualties. We expected fierce fighting. We had reports of Iraqi deceptions on surrendering to draw in Americans and then opening fire. In short, we expected to fight a war.

Sixty hours into a complex operation with leaders and soldiers who were tired, we all did our best with the training and experience we had in trying to defeat the Nation's enemy. That Sergeant Fielder died is a burden that I will forever carry. The meaning of the phrase "fog of war" has no better example than the confusion that took place in the Iraqi desert four and a half years ago and the confusion that still exists based on the evidence you hear today. However, I firmly believe that I acted as any reasonable combat commander would have acted had he been in this situation regrettable as the outcome was.

Mr. Chairman, this concludes my opening remarks. What are your questions?

PREPARED STATEMENT OF SARA E. LISTER

Thank you for the opportunity to testify on behalf of the Department of the Army and to address the issues arising from the 3d Armored Cavalry Regiment's actions on the night of February 27th, 1991, and the subsequent actions—and missteps—by the Army. I am accompanied today by General Ron Griffith, the new Vice Chief of Staff for the Army, formerly the Army Inspector General and before that, the Commander of the 1st Armored Division in Operation Desert Storm. As you know, General Griffith is uniquely qualified to speak of Desert Storm, and of the fratricide

incident at issue here. I am also accompanied by Major General Mike Nardotti, the Judge Advocate General of the Army. He can speak to issues of the Uniform Code of Military Justice and the AR 15-6 investigation process.

Shortly after being sworn in as Assistant Secretary of the Army for Manpower and Reserve Affairs I attended a briefing by the GAO on the preliminary results of their investigation into the tragic fratricide incident on the night of February 27, 1991, in Iraq. I knew nothing of the incident; but I remember that briefing well, for we listened to the tape recording which the GAO had discovered. It was the first time the Army leadership had heard that tape. I was impressed at that time with the professionalism of the GAO investigators; now that I have studied their written report my first opinion is confirmed. I want to thank the GAO, particularly Barbara Cart and Randy Stone, for their professionalism and for their thoroughness. Their inquiry was handled with extraordinary care and concern for the families—especially the family of Sergeant Douglas Lance Fielder—a family which has suffered enormously. First in the loss of their son, and then in their loss of faith that the Army, as an institution, will bring this fratricide incident to a closure marked by justice and compassion. The Army regrets the pain and suffering we have caused Sergeant Fielder's family. I want them to know that we have learned much from this incident and we are committed to acting to avoid a repetition in the future.

I intend to deal with four issues that have been of great concern to the Army leadership, and which I know are of concern to this subcommittee. I want to state at the outset that the Army made serious errors with respect to all these issues. But in the end, the Army itself continued to ask questions about this fratricide incident until the truth was uncovered. And the Army has learned from its mistakes, has already changed some procedures, and is in the process of revising others. I can assure you that the Army will bring this tragic event to closure; not soon enough, to be sure, but using procedures marked by due process and fairness.

Areas of concern are: first, the investigation of the incident; second, the casualty notification process; third, the awards issued to personnel involved in the incident; and finally, other personnel issues.

INVESTIGATION OF THE INCIDENT

There were two separate investigations into the events surrounding the tragedy of 27 February 1991. Both investigations were conducted under the commander's authority provided in Army Regulation 15-6. Both were seriously flawed; but in each case the Army itself continued to ask new questions, and challenge conclusions and recommendations, until all the facts were revealed.

The preliminary investigation was directed by the Commander of the 3d Armored Cavalry Regiment. This investigation was initially concluded on March 3, 1991, reopened because of questions asked by elements in the Army intent on finding the facts, and concluded a second time on May 4, 1991. The investigating officer was a military lawyer, a captain serving as the Command Judge Advocate for the 3d ACR. Looking back, it is clear that the Army put this young captain in an untenable position. He was a good lawyer, by all reports—but in this investigation he had to examine the actions of officers who were his direct superiors, which generally is forbidden by regulation, except in exigent circumstances. Further, he operated under severe time constraints and the turbulence due first, to the continuing combat operations, and then to the Army's efforts to redeploy soldiers from the Persian Gulf as quickly as possible.

Whatever the reasons, the initial investigation was insufficient. However, the Army itself recognized the shortcomings of the initial investigation, and, in the end, the system did work. A second investigating officer was appointed—this time a brigadier general, to conduct a thorough and complete inquiry. That investigation was concluded on March 17, 1992. A copy of it was provided by the Commanding General of the XVIII Airborne Corps to the Department of the Army and to his superior, the Commanding General, Forces Command.

The second investigation was reviewed in detail by the Army Inspector General and the investigating officer briefed the Vice Chief of Staff on his observations and findings. Questions raised by the Inspector General were referred by the Director of the Army Staff, Lieutenant General Dominy, to the Commanding General of Forces Command, General Burba. General Burba's Staff Judge Advocate—a senior military lawyer—also gave the report a critical legal review. The facts were accurate: the conclusions and recommendations were found to be insufficient.

As a major command commander, General Burba was the official responsible for taking appropriate action to resolve questions raised by the DAIG and to address any other matters arising from his review of the investigation. On the advice of his Staff Judge Advocate, General Burba disapproved certain conclusions and rec-

ommendations of the investigating officers. Most importantly, he rejected the conclusion that the actions and decisions of all individuals involved in the fratricide incident were reasonable and appropriate under the circumstances of combat. General Burba did not find, nor did his Staff Judge Advocate recommend that he find, that any person was criminally liable for the death of Sergeant Fielder.

It is important to note here that despite the inadequacies of the initial investigations, the Army's final report of investigation contains essentially the same facts as found by the GAO, with the exception of the audio tape discovered by the GAO investigator.

The Secretary of the Army has directed that a copy of the GAO's final report, which we received in late April, be provided together with the other reports of investigation to the Commanding General of the Military District of Washington. He has been instructed to reexamine the disciplinary actions taken as a result of the incident and to review other matters, as appropriate, arising from the disciplinary review. We expect that review will be completed in early September.

Army Regulation 15-6 is currently under review. AR 15-6 provides commanders at all levels with an essential, fact-finding tool. Used properly, it provides thorough yet expeditious answers to significant issues. The Judge Advocate General, as the proponent of the regulation, is overseeing the review. The leadership of the Army will ensure that a revised AR 15-6 gives Commanders even clearer guidelines to follow in such investigations to ensure the problems identified in this case are not repeated.

CASUALTY NOTIFICATION PROCESS

I am aware that there were serious problems with the information given next of kin when the casualty was due to possible fratricide. The process used then—and the delay in notification—has been thoroughly examined by the Army, the Department of Defense, and the Congress. One thing is clear, the process used in peacetime to report, for example, a training accident, cannot be overlaid on a wartime environment. Nevertheless, the current process is designed to ensure that families obtain accurate information as soon as it is available to the Army. Everyone should be perfectly aware that the mistakes made in the casualty notification process were honest mistakes. No one involved in the process intended to provide false information; nevertheless, I can assure you that this is an area of great concern to the entire Army leadership. The Army has taken action since Desert Storm to ensure that the casualty notification process is timely, accurate, and sensitive to the needs of the families whose loved ones are killed or wounded in service to their country.

AWARDS ISSUED TO PERSONNEL INVOLVED IN THE FRATRICIDE

Aside from the death of Sergeant Fielder itself, the most contentious and emotional issue arising from the events of February 27, 1991, are the awards given to personnel involved in some way with the incident. During Desert Storm, as is the Army practice in all major combat actions, authority to approve certain decorations is delegated to field commanders. This included authority to award the Bronze Star or Army Commendation Medal, for either valor (when presented with the "V" device) or service (without the "V" device).

In Operation Desert Storm, the approval authority for the Silver Star or a lower ranking decoration was delegated to division commanders (Major General). In the case of the 3d Armored Cavalry Regiment, the commander was not a general officer, so the authority to issue these awards remained at the Corps level. In this case, the authority rested with the XVIII Airborne Corps Commanding General.

Following the incident on the 27th of February, several soldiers were recommended for valorous awards. Such awards are not appropriate for actions taken, even when in themselves evidencing bravery, if there is no enemy against whom the action is directed. Unfortunately, several valorous awards were presented in connection with the February 27th incident, based on narratives that contained inaccurate information.

It is true that the final Army review of the investigations recognized that there might well be a problem with some of the awards. The Commanding General of Forces Command, General Burba, approved the following course of action recommended by his Staff Judge Advocate:

"Following receipt and consideration of any reply to the proposed letters of reprimand, a determination be made as to whether a copy of the attached report of investigation be forwarded to the Adjutant General of the Army with a recommendation that the personnel files of (specific individuals) be reviewed to determine whether any personal awards and decorations presented to them as a result of Desert Storm be withdrawn."

The review recommended by the FORSCCM Staff Judge Advocate did not occur. I do not believe that failure to follow through with such a review was intentional. We are in the process of following through on this recommendation.

But our failures did not end with the lack of review of the awards after General Burba sent his recommendations forward. As the GAO report indicates, the GAO questioned whether the narrative justifying additional awards was accurate and recommended that the Army take action. The DA Inspector General did conduct a separate review of the valor awards issued to soldiers directly involved in the incident. In August of 1994, I received a memorandum from the DAIG asking that I review certain awards and determine whether they should be revoked. I endorsed that memorandum to the Adjutant General and the process of review did begin.

We take responsibility for the delay in completing that review. The review was to include not only the awards to seven individuals involved in that fratricide, but also was to review any other awards that may have been improperly authorized for that and all other known fratricide incidents.

As you know, the Army takes awards very seriously, and review of awards is time consuming. Because awards approval authority during Desert Storm was delegated to field commanders, the backup statements supporting each award could only be obtained through hand searches of unit files from four years ago. In many cases, unit records were not available. The process was further complicated by the fact that the Army encourages the individual whose award is in question to comment on any proposal to revoke the award. In some cases, the individuals involved had been released from active duty and time was spent locating them.

Obviously, the intention was to be fair to soldiers whose service was exemplary, even if not valorous. But the process took too long. As of May 18, 1995, Secretary West has approved the revocation of the valorous awards and directed that no awards be reissued until the entire awards review is completed. The Secretary of the Army will consider any decorations recommended by the Adjutant General for individuals involved in the Desert Storm fratricide incidents.

In conclusion, I can only say that our process is flawed, and must be revised to ensure that review of doubtful awards is done expeditiously. For example, we are changing our regulations so that the authorization for an individual to wear an award on their uniform is suspended whenever an appropriate official determines that there is reason to doubt the validity of the award, or where there is reason to believe that the supporting documents for the award contain erroneous or misleading statements or misrepresentations of fact. The suspension would remain in effect until review of the award is completed.

Detailed review of awards for all personnel involved in Desert Storm fratricide incidents is continuing. We expect to have recommendations forwarded to the Secretary of the Army by mid-August at the latest.

OTHER PERSONNEL ISSUES

Many of the officers and soldiers who were involved in the incident are no longer on active duty. Only the former Commander of the 3rd Squadron, 3rd ACR, is still on active duty. The former Commander of I Troop, 3rd Squadron, 3rd ACR, a Captain, has left active duty. The senior commander on the ground, the former Commander of the 3rd ACR, a Colonel, voluntarily retired from active duty in late 1992.

It is difficult to discuss personnel actions in any detail because of the privacy rights of the officers involved, and because other issues are still under review and I cannot prejudice the decision-making process.

As noted in the GAO Report, letters of reprimand were initially prepared and provided to the three commanders for their comments and return to the Commander, Forces Command. General Burba, after reviewing the comments of the officers took the following actions:

(a) After examining the remarks of the Commander of I Troop, General Burba withdrew the proposed letter of reprimand.

(b) General Burba did find the actions of the 3rd ACR Commander made him sufficiently culpable in the incident to warrant allowing the reprimand to stand, but determined that his reply contained additional extenuation and mitigation. Thus, the reprimand was allowed to stand but was not placed in the officer's military personnel file.

(c) The letter of reprimand for the remaining officer, the squadron commander, from whose command vehicle the shots fatal to Sergeant Fielder were fired, was filed in the officer's local military personnel records jacket for one year.

In due course, the former squadron commander was considered for attendance at a senior service college, as prescribed by Army policy and for promotion to full Colonel, as required, by law. In each case, the officer was nominated by the Selection Board. However, action was taken by then acting Secretary of the Army Shannon in March, 1993, to delay the officer's attendance at Senior Service College, and by Secretary West in January, 1994, to delay the officer's promotion, until the GAO's report could be received and an additional review conducted of the officer's qualifications for school and promotion.

The Army has a formal process for reconsidering officers for promotion and schooling. This process ensures fairness to the individual but also prevents persons who are determined to be mentally, physically, morally, or professionally unqualified for promotion from assuming the higher grade. Information about this process has been provided to your staff.

In summary, mistakes were made. We have learned from these mistakes, and will continue to work to avoid their reoccurrence. In particular, we want Sergeant Fielder's family to know that we honor their son's service and sacrifice.

Thank you for the opportunity to appear before you today.

Chronology of Events - 1991

Feb. 27	Feb. 28	March 4-6	March 8	May 2	Aug. 12
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Sgt. Fielder's
parents are
informed by
the Army of
the true cause
of the death
of their son.

Sgt. Fielder's
parents are
informed by
the Army of
the true cause
of the death
of their son.

Medals are
awarded to
those soldiers
involved in
the incident.

and

Fielder's
parents are
informed by
members of his
unit that their
son was killed
by "friendly
fire."

Sgt. Fielder's
parents are
officially
notified by
the Army of
the true cause
of the death
of their son.

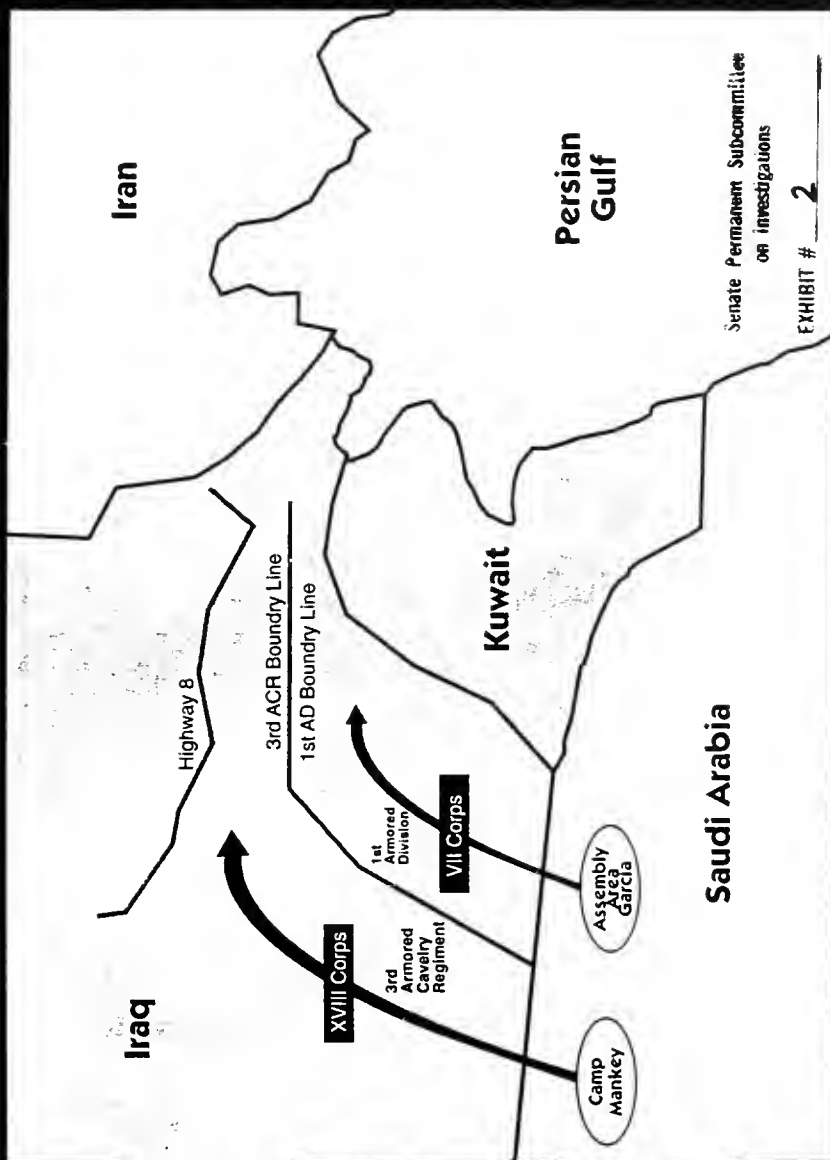
Sgt. Fielder's
parents are
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fire."

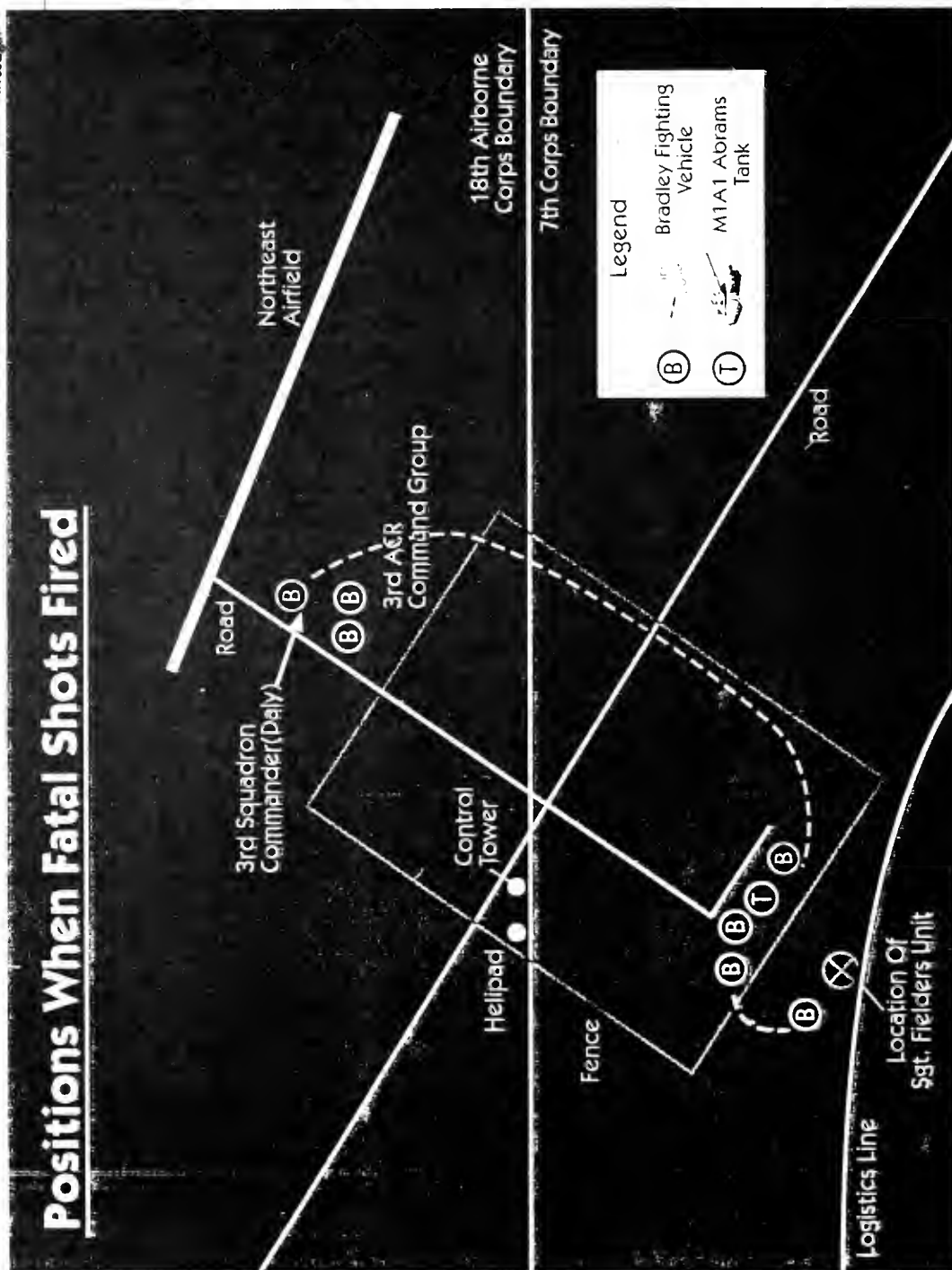
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parents are
officially
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of the death
of their son.

Movement of Troops Prior to Fratricide





EDITION OF 1 JUN 68 IS OBSOLETE

EXHIBIT # 4

ELECTRONIC DA FORM 436 (RECOMMENDATION FOR AWARD)

MERITORIOUS ACHIEVEMENT

TO: COMMANDER
3RD ACR
APO NY 09209

FROM: REGIMENTAL S-1
3RD ARMORED CAVALRY REGIMENT
APO NY 09209

PART I - PERSONAL DATA

1. DALY, JOHN HAROLD JR.
2. 5504-86-3186
3. LTD
4. 12400
5. HHT 3RD SQUADRON 3RD ARMORED CAVALRY REGIMENT, FT. BLISS, TEXAS 79916
6. BRONZE STAR MEDAL ~~RECEIVED~~
7. NO
8. AS4P
9. NO

PART II - RECOMMENDATION FOR AWARD FOR ACHIEVEMENT OR SERVICE

10. 24 SEP 90 - 7 MAR 91
12. AAM (1 OLC), ARCOM (2 OLC), MSM (1 OLC)

PART III - N/A

PART IV - PROPOSED CITATION

FOR EXCEPTIONALLY MERITORIOUS AND VALOROUS ACHIEVEMENT AS COMMANDER THIRD SQUADRON, THIRD ARMORED CAVALRY REGIMENT, DURING OPERATIONS DESERT SHIELD AND DESERT STORM. THROUGH HIS CALM BUT TENACIOUS LEADERSHIP, THE THUNDER SQUADRON SMOOTHLY TRANSITIONED FROM A CONUS FIELD ENVIRONMENT TO COMBAT OPERATIONS IN SOUTH WEST ASIA, OVERCOMING EXTREMES OF ENVIRONMENT AND DISTANCE AS WELL AS FIELDING OF ALL NEW COMBAT SYSTEMS. DURING COMBAT OPERATIONS DEEP INTO IRAQ, HE ALWAYS LED BY EXAMPLE AT THE SQUADRON'S CRITICAL POINTS ON THE BATTLEFIELD, EXPERTLY GUIDING THE SQUADRON'S COMBAT FORCE TO QUICKLY OVERWHELM ENEMY RESISTANCE. LIEUTENANT COLONEL DALY'S MANNER OF PERFORMANCE REFLECTS GREAT CREDIT ON HIMSELF, THE REGIMENT OF MOUNTED RIFLEMEN AND THE UNITED STATES ARMY.

PART V - OTHER INSTRUCTIONS AND AUTHENTICATION

16. NARRATIVE

19. COMMANDER, 3RD ACR,
FT. BLISS, TEXAS 79916

17. REGIMENTAL COMMANDER

18. DOUGLAS H. STARR, 63RD COL

20. SIGNED:

[Signature]
Lt Col, 10th
Adm. Serv.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 5

NARRATIVE

WHILE SERVING AS COMMANDER, 3D SQUADRON, 3D ARMORED CAVALRY REGIMENT DURING OPERATIONS DESERT SHIELD AND DESERT STORM, LTC JOHN DALY HAS DISTINGUISHED HIMSELF BY BOTH MERITORIOUS AND VALOROUS ACTION. FROM 10 AUGUST 1990 TO 17 JANUARY 1991, LTC DALY'S CALM BUT TENACIOUS LEADERSHIP WAS EVER PRESENT AS HE FORMED THE SQUADRON INTO AN AGILE, COHESIVE FIGHTING UNIT WHILE SIMULTANEOUSLY ENSURING THE BEST LIVING CONDITIONS POSSIBLE FOR HIS TROOPERS. DURING THE GROUND CAMPAIGN, 24-28 FEBRUARY 1991, LTC DALY DISTINGUISHED HIMSELF BY VALOROUS ACTION BY CONSISTENTLY PLACING HIMSELF WITH THE LEAD TROOP OR POINT OF MOST LIKELY ENEMY CONTACT DURING OUR 200 MILE OFFENSIVE DRIVE INTO IRAQ. THE MOST SIGNIFICANT DEMONSTRATION OF VALOR OCCURED ON 26-27 FEBRUARY 1991, DURING A NIGHT ATTACK OF AN ENEMY AIRFIELD. AS THE SQUADRON CLOSED ON THE OBJECTIVE AREA, I TROOP REPORTED THEY WERE RECEIVING HOSTILE FIRE. LTC DALY, WITHOUT HESITATION OR CONCERN FOR HIS PERSONAL SAFETY, MOVED TO THE POINT OF CONTACT. MONITORING THE BATTLE FROM THE TAC, IT WAS APPARENT THAT LTC DALY HAD MOVED INTO AN AREA IN WHICH DISMOUNTED TROOPS AND AT LEAST ONE BURNING VEHICLE HAD BEEN OBSERVED. LTC DALY CALMLY AND SYSTEMATICALLY SORTED THROUGH THE CONFUSION AND DIRECTED THE ACTIONS OF I TROOP IN CLEARING THE OBJECTIVE. AT ONE POINT DISMOUNTING HIS OWN OBSERVERS TO ASSIST. THROUGHOUT THIS ENTIRE NIGHT ATTACK, AND GROUND CAMPAIGN, LTC DALY'S CALM AND DECISIVE LEADERSHIP WAS EVER PRESENT. IN ALL PHASES OF THIS OPERATION, LTC DALY'S SERVICE HAS BEEN REPEAT WITH VALOROUS AND MERITORIOUS ACTION.

Witness Statement
(LTC John Daly)

6 Mar 91

While serving as the Third Squadron Commander during the US war with Iraq, LTC John Daly distinguished himself by valorous action by leading the Squadron in the ground offensive during the period 24-28 Feb 91. LTC Daly's leadership was ever present as he continuously positioned himself at the point of expected enemy contact. His valor was clearly demonstrated on the evening of 26 Feb and morning of 27 Feb when he participated in the assault of an enemy airfield. After conducting a night forced passage of lines and crossing the probable line of deployment (P.L.D), the Squadron Commander received a report of fleeing enemy vehicles and hostile fire. Upon receiving the report, the ~~SCO~~ directed the ^{Squadron} Command group to remain in place as he moved to the enemy contact. Disregarding his order, I moved with the SCO to the area where I Troop had reported receiving enemy fire and where we were observing I Troop firing 25mm. When we arrived at the skirmish line we pulled behind the 3d plt I Troop. However, after scanning the area we observed dismounts fleeing the scene. At which time HQ 66 & HQ 33 maneuvered to the left flank of I Troop in order to provide suppressive fire & prevent the enemy escape from the I Troop skirmish

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 6

line. Once set on the flank LTC Daly demonstrated outstanding leadership as he calmly and systematically orchestrated actions on the objective. We continued to encroach on the enemy position until within about 50 meters. LTC Daly dismounted part of his crew to begin clearing the objective while I maneuvered to the rear of the position to prevent the enemy from / assist in clearing the objective. Prior to completion of those actions the burning truck (US 548) exploded sending burning debris and explosive material beyond the position of the command group. We then pulled back and continued to delay the situation. During the entire ground war, but most specifically during the aforementioned night attack, LTC Daly's actions were both valorous and meritorious. He clearly demonstrated his ability to lead and to fight.

William C. Martin
 William C. Martin
 MA5 Cavalry

#2619 254/91 JTB

IMPORTANT!
DO NOT WRITE IN THESE SPACES EXCEPT WHEN DIRECTEDPRIVACY ACT STATEMENT
ON DA FORM 67-8-1

58224-3

1311

1123 0295 511 E13

1. LAST NAME, FIRST NAME, MIDDLE INITIAL DALY, JOHN E. JR.		2. GRADE LTC		3. DATE OF BIRTH 90 04 01		4. SERVICE NUMBER AR 12-41		5. PAY GRADE 48083	
6. UNIT, ORGANIZATION, STATION, ZIP CODE OR APO, MAJOR COMMAND HHT, 3D SQDN, 3D ACR, FT BLISS, TX 79916		7. FORSCOM		8. SR Option		9. CODE FC			
10. PERIOD COVERED FROM 90 09 31 TO 91 03 18		11. NO OF MONTHS 10		12. UNIFORM CODE PS 34		13. RATED OFFICER COPY (Check one and mark) <input type="checkbox"/> GIVEN TO OFFICER <input checked="" type="checkbox"/> FORWARDED TO OFFICER		14. FORWARDING ADDRESS 910429	
15. EXPLANATION OF NONRATED PERIOD									
PART II - AUTHENTICATION (Show either signature portion PART I and AUTHENTIC OFFICIALS ONLY)									
16. NAME OF RATER (Last, First, MI) STARR, DOUGLAS H.		17. SIGNATURE 		18. DATE 25 Mar 91		19. GRADE, BRANCH, ORGANIZATION, DUTY ASSIGNMENT COL, AR, REHT, 3D ACR, FT BLISS, TX		20. REGIMENTAL COMMANDER	
21. NAME OF INTERMEDIATE RATER (Last, First, MI)		22. SIGNATURE		23. DATE		24. GRADE, BRANCH, ORGANIZATION, DUTY ASSIGNMENT			
25. NAME OF SENIOR RATER (Last, First, MI) LUCK, GARY E.		26. SIGNATURE 		27. DATE 26 Apr 91		28. GRADE, BRANCH, ORGANIZATION, DUTY ASSIGNMENT LTC, XVIII ABN CORPS APO NY 09775		29. COMMANDING GENERAL	
30. SIGNATURE OF RATED OFFICER OFFICER unavailable for signature		31. DATE 18 Mar 91		32. DATE ENTERED ON DA FORM 67-8 18 Mar 91		33. RATED OFFICER WFO INITIALS BKD		34. SR WFO INITIALS 8	
PART III - DUTY DESCRIPTION (Show)									
35. PRINCIPAL DUTY TITLE SQUADRON COMMANDER		36. GRADE 12C00							
37. REFER TO PART III, DA FORM 67-8-1 Commander of one of three ground combat Regimental Armored Cavalry Squadrons assigned to an Airborne Corps on Operation Desert Shield in Saudi Arabia. Responsible for maintaining the Squadron as a cohesive, combat ready force with special emphasis on combat training, modernization, materiel readiness and combat preparedness. Maintain a high level of discipline, morale and welfare for the troopers and ensure the welfare of their families at Ft. Bliss through proactive and visible family support groups. Responsible for 1000 personnel, 146 tracked and 117 wheeled vehicles. Responsible for 6 subordinate units including a Headquarters Troop, 3 Cavalry Troops, 1 Tank Company, and 1 Artillery Battery.									
PART IV - PERFORMANCE EVALUATION - PROFESSIONALISM (Show)									
38. PROFESSIONAL COMPETENCE The Rater, in Paragraph 14 below, indicates the degree of agreement with the following statements as being representative of the rated officer. Any number in cell is reflected in 8 below.		39. HIGH DEGREE 1 2 3 4 5		40. LOW DEGREE 1 2 3 4 5					
1. Possess capacity to acquire knowledge/skill concepts		2. Displays sound judgment		3. Seeks self-improvement					
2. Demonstrates appropriate knowledge and expertise in assigned tasks		3. Is adaptable to changing situations		4. Sets and enforces high standards					
3. Maintains appropriate level of physical fitness 9011 PASS		4. Possesses military bearing and appearance 70/154 YES		5. Displays superior leadership					
4. Meets, challenges and develops subordinates		5. Displays superior leadership		6. Displays superior leadership					
5. Performs under physical and mental stress		6. Displays superior leadership		7. Displays superior leadership					
6. Commends subordinates and fosters team spirit		7. Displays superior leadership		8. Displays superior leadership					
7. Clear and concise in written communications		8. Displays superior leadership		9. Displays superior leadership					
41. PROFESSIONAL ETHICS (Comment on any area where the rated officer is particularly noteworthy or needs improvement)									
1. DEDICATION 2. RESPONSIBILITY 3. LOYALTY 4. DISCIPLINE 5. INTEGRITY 6. MORAL COURAGE 7. SELFLESSNESS 8. MORAL STANDARDS		a.1. Quick mind, broad perspective; a.2. Fully qualified both tactically and technically; a.4. Excellent mentor/teacher for subordinates; a.5,10. Unflappable, handles pressure well; a.6. Gives subordinate room to succeed/fail - encourages forthrightness; a.7,14. An excellent communicator; a.8. Impeccable judgement; a.11. Sets high standards - meets them himself; b.1. Wholly and completely dedicated to his Troopers and their mission; b.3. Loyal to his Troopers and to his unit; b.5. Unquestioned integrity; b.6. Has the courage of his convictions; b.7. Unimpeachable moral standards.							

DA FORM 67-8

REPLACES DA FORM 67-8, 1 JAN 78 WHICH IS OBSOLETE, TYPED IN

US ARMY OFFICER EVALUATION FORM

IMPORTANT!

TO BE IN WINDOW EXCEPT WHEN ADJUST

PERIOD COVERED 900531-910318

PART V - PERFORMANCE AND POTENTIAL EVALUATION (cont.)

A. RATED OFFICER'S NAME DALY, JOHN E. JR. GRADE 552-88-3186

RATED OFFICER IS ASSIGNED TO ONE OF FOLLOWING DESIGNATED SPECIAL ASSIGNMENTS ☒ YES ☐ NO

B. PERFORMANCE DURING THIS RATING PERIOD. REFER TO PART III, DA FORM 87-1, AND PART III, DA FORM 87-1, AND DA FORM 87-1, DO NOT USE FOR COMMENTS ON POTENTIAL. ☒ ALWAYS EXCEEDED REQUIREMENTS ☐ USUALLY EXCEEDED REQUIREMENTS ☐ MET REQUIREMENTS ☐ OFTEN FAILED REQUIREMENTS ☐ USUALLY FAILED REQUIREMENTS

C. COMMENT ON SPECIFIC ASPECTS OF THE PERFORMANCE. REFER TO PART III, DA FORM 87-1, AND PART III, DA FORM 87-1, AND DA FORM 87-1, DO NOT USE FOR COMMENTS ON POTENTIAL. John Daly has done an absolutely outstanding job in Desert Shield and Storm. Orchestrating the deployment of his Squadron by rail, air, and sea over 10,000 miles, he deployed safely and efficiently, prepared to move into the desert almost immediately upon arrival in Saudi Arabia. After moving directly into the desert from port, John commenced a desert training and maintenance program designed to emphasize and improve desert training begun at Ft. Bliss for NTC. He focused on individual training due to having several hundred new arrivals, but integrated the focus on maintenance/services and collective Squadron maneuver skills requisite to success in desert operations. As a result his Squadron enjoyed exceptionally good OR rates (95-98% combat vehicles) and rapidly became a tactically adroit combat-ready Squadron. In Desert Storm John crossed the LD with the difficult mission of screening the Corps right flank up to 125 KM at one point and moved his Squadron over 325 KM in 48 hrs, capturing during one night attack an important airfield subsequently used by the 101st Air Assault Div. for offensive operations. John's Squadron switched out both its tank and Bradley Fleet (the tanks only two days before the ground war) and it took care of its soldiers and waiting family members beautifully. As a result, morale and esprit and a winning attitude prevailed. Through John's talent and drive, the Squadron was a key to the Regiment's success in Saudi Arabia and Iraq. This Squadron accomplished every mission given it quickly, violently, and successfully!

D. THIS OFFICER'S POTENTIAL FOR PROMOTION TO THE NEXT HIGHER GRADE IS ☒ PROMOTE AHEAD OF CONTEMPORARIES ☐ PROMOTE WITH CONTEMPORARIES ☐ DO NOT PROMOTE ☐ OTHER (Explain below)

E. COMMENT ON POTENTIAL John Daly has it all - all of the traits and characteristics requisite to service at the very highest levels. Promote ASAP - must command a Brigade/Regiment. John is without question General Officer material.

PART VI - INTERMEDIATE RATES

COMMENTS

PART VII - SENIOR RATES

A. POTENTIAL EVALUATION (See Chapter 2, DA FORM 87-1) GRADE 06

SR ☒ [141] RD: LTC
[39] DALY, JOHN
[1] 552883186
[0] SR: LTG
[1] LUCK
509348751
[1] DATE 910506
[0]
[0] TOTAL OFF
[0] RATED 124

B. COMMENTS LTC John Daly's performance as a squadron commander during all phases of Desert Shield/Storm was simply outstanding. He possesses and blends all the skills and attributes to make him truly one of the very best. His maintenance and training programs conducted in a harsh, here-based environment resulted in a combat ready maneuver force. His soldiers and combat systems performed flawlessly, even though he switched out tanks and Bradleys just two days before the ground attack. John's squadron performed the critical mission of screening the Corps flank with VII Corps (at one point this stretched him 125K) in a magnificent fashion. This allowed both Corps to rapidly exploit the tactical situation and contributed significantly to the overwhelming success of Desert Storm. Unlimited potential. Select for Army War College. Promote and select for 06 level command. G.O. potential.

C. A COMPLETION OF THIS REPORT AND CONSIDERED IN MY EVALUATION AND REVIEW ☒ YES ☐ NO (Explain below)



THE UNITED STATES OF AMERICA

TO ALL WHO SHALL SEE THESE PRESENTS, GREETING: THIS IS TO CERTIFY THAT THE PRESIDENT OF THE UNITED STATES OF AMERICA AUTHORIZED BY EXECUTIVE ORDER, 24 AUGUST 1967 HAS AWARDED

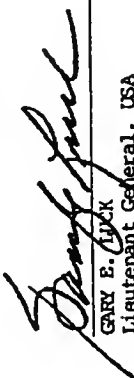
THE BRONZE STAR MEDAL

TO


Lieutenant Colonel JOHN H. DALY, JR., Armor

FOR exceptionally meritorious achievement in support of actions against a hostile force in the Persian Gulf from 24 September 1990 through 7 March 1991 while assigned to 3d Armored Cavalry Regiment, XVIII Airborne Corps, Saudi Arabia. Lieutenant Colonel Dalý's performance in combat operations was a key factor in enabling the XVIII Airborne Corps to assist in restoring the world security goals of the United Nations. His devotion to duty, aggressiveness, and ability to excel while under great pressure contributed significantly to the successful accomplishment of his unit's mission. Lieutenant Colonel John H. Dalý, Jr.'s outstanding performance in support of the combat mission is in keeping with the highest traditions of military service and reflects great credit upon him, the XVIII Airborne Corps, and the United States Army.

GIVEN UNDER MY HAND IN THE CITY OF WASHINGTON
THIS 2d DAY OF May 19 91


GARY E. LUCK
Lieutenant General, USA
Commanding




W. J. W. S. Lane
SECRETARY OF THE ARMY

DA FORM 600-1, 1-79

Serials Management Subcommunities
and Assignations

Serial # 8

SWORN STATEMENT			
For use of this form, see AR 170-45; the preparing agency is Office of The Deputy Chief of Staff for Personnel.			
LOCATION <u>FT BLISS TX</u>	DATE <u>3 MAR 91</u>	TIME <u>1400</u>	FILE NUMBER
LAST NAME, FIRST NAME, MIDDLE NAME <u>DALY JOHN H.</u>	SOCIAL SECURITY NUMBER <u>552-88-3186</u>		GRADE/STATUS <u>LTC</u>
ORGANIZATION OR ADDRESS <u>HQS 313 ACR</u>			
I, <u>JOHN H. DALY</u> , WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH.			
Q&A: Questions were asked by Captain Jacquot and answered by LTC Daly.			
Q: Who told you at the passage point not to fire south of 50 gridline and turn attack from N/S to E/W?			
A: Colonel Starr.			
Q: Were you informed that 1st AD had reported the airport clear and friendlies in the area?			
A: No, I thought it was a hostile airfield and I encountered an airfield that was much more extensive than what I had seen on the map. I was expecting a dirt airstrip.			
Q: Did anyone at Regiment authorize you to engage targets outside the boundary?			
A: No.			
Q: What is your understanding of the ROE as applied to firing outside the boundary?			
A: If I am in contact and receiving hostile fire, I may return fire.			
Q: Did you see imagery of the airfield?			
A: No, I did not see any imagery for this attack or any other attack I was involved in during the war. All the imagery that I saw during the war appeared to be outdated and irrelevant. I saw no imagery for this attack.			
Q: a) What do you recall as weather conditions? b) Did they have any effect on the situation?			
A: a) It had stopped raining, it was cold, with a slight wind. Illumination was not a factor since the burning building (which I now know to be a trailer) was brighter than any other illumination. However, the cloud cover brought the illumination to down near zero. b) The weather had no effect on the immediate situation, however, the rain storms earlier in the evening may have had a general effect on the soldiers.			
Q: Why did the squadron commander authorize his own gunner to fire the fatal rounds when he had numerous other combat vehicles available, several which were closer to the target?			
A: Because the SQD CMDR had absolute control over his gunner and did not have to operate through anyone else. Furthermore, the difference in proximity to the target was one vehicle length at the most, making distance to the target not a factor.			
EXHIBIT	INITIALS OF PERSON MAKING STATEMENT <u>[Signature]</u>		PAGE 1 OF <u>2</u> PAGES
ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF <u> </u> TAKEN AT <u> </u> DATED <u> </u> CONTINUED." THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE <u> </u> OF <u> </u> PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.			

DA FORM 2823

SUPERSEDES DA FORM 2823, 1 JAN 66, WHICH WILL BE USED.

EXHIBIT 99 01

STATEMENT (Continued)

Q: Were all your personnel wearing CVC helmets?
A: Yes.

Q: Why could the engineers hear the voices of the 3/2 personnel before the attack well enough to identify them as Americans, but the 3/3 personnel failed to hear the engineers yelling to each other?

A: If you have CVC helmets on and the engines are running you obviously cannot hear as well as someone standing on the ground. The engineer soldiers undertook no actions, verbal or gestures, to indicate that they were friendly forces. ~~WFF~~

Q: Why did the victims clearly identify the 3/3 vehicles as U.S. by type through NVGs before any rounds were fired but the 3/3 personnel failed to identify through their thermal sights the target vehicles? The target vehicles all had both appropriate coalition markings and thermal identification devices.

A: I have no earthly idea, by the time I was on the scene I was confronted by a large burning mass and everything else was unrecognizable.

Q: Is there anything else you would like to add?

A: No.

Nothing Follows

AFFIDAVIT

I, JOHN H. DALY HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 12 day of MAY, 19 91
at FT. BRAS 72435

David Jacquot
(Signature of Person Administering Oath)

DAVID JACQUOT, CPT, JA

(Typed Name of Person Administering Oath)

USMC ART. 136

(Authority To Administer Oaths)

PAGE 2 OF 2 PAGES

EXHIBIT 88-31

SWORN TESTIMONY OF LTC DALY, CONTINUED:

LTC D: opposed to north/south. What that translated into was
(Cont) an east/west cut to the south and then continued
east/west again.

BG H: Had you been told about the report that there were
friendlylies in the area and that the 3d ACR request for
a buffer zone had been disapproved? Did you know about
this buffer zone and friendly report? Had you been
told that by the 3d ACR?

LTC D: Sir, I don't recall being told that. I know there was
discussion about the boundary but as far as I knew I
was attacking through a forward force into enemy
territory and to the south of me... I was the furthest
force forward.

BG H: Did anyone tell you why they changed the axis of the
attack or did you just get a radio message that said
attack east/west? Did you understand why that was all
done?

LTC D: Yes, Sir. I understood that it was because there was a
boundary there.

SWORN TESTIMONY OF LTC DALY, CONTINUED:

BG H: You didn't know anything about a buffer zone?

LTC D: Not because there were friendlies there. It's because there was an intellectual discussion about a boundary as opposed to "There are friendly forces to your south."

BG H: Had you heard anything about a buffer zone request and disapproval of the buffer zone?

LTC D: Sir, I don't recall that.

BG H: What specific orders did you give I Troop and were they told to expect enemy in the area? What did you plant in the mind of the I Troop commander as far as what he was going to face and what he should do?

LTC D: Sir, as far as we knew, and the instructions that I gave them, I was punching through, as I said earlier, to attack an airfield... attack and seize an airfield. Those words implied that there were enemy present. Yes, I expected to run into enemy. All reports that we

SWORN TESTIMONY OF LTC DALY, CONTINUED:

BG H: What made you believe the vehicles were Iraqi? Or could you see the vehicles when you got there?

LTC D: Sir, I saw a building.

BG H: Did you ever hear a report of a 548, which is an American-made vehicle?

LTC D: After the fact.

BG H: During this process, no one ever told you that one of those vehicles was an American made 548?

LTC D: I saw a building, Sir.

BG H: You mentioned it was burning. Did you ever see a green star cluster?

LTC D: Yes, Sir. I saw a green star cluster come from the burning mass which I thought was a cook-off from this mass of ammunition.

SWORN TESTIMONY OF LIEUTENANT COLONEL JOHN H. DALY, CONTINUED:

LTC D: burning. So, one coke can with a light in it, I would have not seen.

BG H: Did you ever at any time receive a report of any friendlies being in the area?

LTC D: No sir.

BG H: Did one of your main missions involve maintaining any contact with any VII Corps unit?

LTC D: No sir.

BG H: Yours was just strictly attack and take the airfield? And you did not have any coordination mission or boundary mission?

LTC D: No sir.

BG H: Why did you have in your attack formation so much fire power forward with a unclear enemy situation? In other words why did you chose that formation?

LTC D: Because, I was in the attack mode sir. We were attacking to seize an airfield and so rather than putting scouts forward at that time I put my heavy metal forward.

BG H: In a letter to a senator CPT Friesen has made a couple of allegations, that I'd like to ask you about and give a chance to comment. One of those had to do with

SWORN TESTIMONY OF LTC DALY, CONTINUED:

LTC D: On my map sheet and overlay had the Corps boundary on it. I overheard portions of the discussion that the regiment had with ... with the regimental commander speaking to the TOC about the boundary being there. I did not understand that there were portions of their trains there. As far as I knew, I was attacking into an area that had no enemy in it. That boundary, yes, extended forward, but I did not understand that there were friendly forces there.

SG H: CPT Friesen testified that the impression he had... the information that he had was that he should expect to encounter some dug-in Iraqis there, perhaps even up to battalion size. Do you know if that was the information he was given? What was your impression about the enemy that was likely there? Did you go in with the impression that there probably were enemy there or there probably were not enemy there or what do you think the mind-set was? Did you go in with the impression that there probably were enemy there or there probably were not enemy there or what do you think the mind-set was at your level concerning that objective and what to expect there?

SWORN TESTIMONY OF LIEUTENANT COLONEL JOHN H. DALY, CONTINUED:

LTC D: No sir. We talked on the radio.

BG H: Why did you think the attack direction was changed?
What did you think about that mission change?

LTC D: I knew that they did not want to go South of a Line, because that was the Corps boundary. My impression was, and this was a year later, so it a little hazy. There weren't people there but we were honoring the boundary.

BG H: Did you get a update on the enemy situation at that time and the friendly situation, at that time?

LTC D: No, I just don't remember sir.

BG H: So, when you attacked, the enemy situation in your mind was basically the same as your were briefed previously which is there were people on the objective?

LTC D: There should have been people on the objective and the people were either giving up in droves or not giving up in droves. My impression was that all across the Army we just did not know. Every time you came across an Iraqi, it was another situation that you better be careful with.

BG H: Did anyone ever give you any specific locations of friendlies or even the word that probably there were

SWORN TESTIMONY OF LIEUTENANT COLONEL JOHN H. DALY, CONTINUED:

LTC D: not have a direct conversation about that. There may have been conversation on the Regimental net about that. But, sir you have to understand this is more for the record and I don't mean to lecture you. The phrase "It was a dark and stormy night", took on added meaning for us. It was very dark and it was very wet and we were trying to do something that is at all times a dicey operation and that is pass one combat unit through another combat unit. While that was going on we were then going to make a change in the plan and the plan at that point had been strictly a radio plan at that point. All of my concentration was on moving my force, keeping my force intact and in contact with each other and trying to do this pass through, make a right, make a left and then attack. My concentration was not on the Regimental Commanders net. I was concentrated on my troop commanders in moving through the 1st Squadron.

BG H: After you had this change in mission. Did you ever have eye to eye contact with COL Starr?

LTC D: Not to my recollection. No sir.

BG H: He never came down and briefed after the change?

SWORN TESTIMONY OF LTC DALY, CONTINUED:

SG H: Just two simple questions. The first is the troop commander said that he had called a cease fire or check fire of his unit, did you hear that? Had that been transmitted back to you?

LTC D: Sir, the first I knew of that was when I read it in the Washington Post.

RG H: Tell me a little bit more about the events right when you had your gunner shoot. Someone said "They're getting away." Was that you saying that or your gunner?

LTC D: No. That was my gunner saying that, Sir.

BG H: He said that to you?

LTC D: Yes, Sir, SGT Wolborsky. As you know, before the record... CPT Venezia was there and listening in the net as was... I carried a commo sergeant in the back of my vehicle throughout the war, just in case. So he heard it as well.

SWORN TESTIMONY OF LIEUTENANT COLONEL JOHN H. DALY, CONTINUED:

- LTC D: in contact with an enemy who had fired on us and we were now assessing the situation and moving into a positions to either capture or kill these people.
- BG H: So, then are saying that you feel his check fire was a fire control measure as opposed to a legal cease fire?
- LTC D: Yes sir. It was absolutely not what has been reported in the press as a cease fire-stop the war. This was just a control measure the same as I would say to my gunner in my tank "Fire" / "Cease Fire"
- BG H: Did you ever check your position with that 50 Grid Line?
- LTC D: I remember as I was moving down I think I was looking at my slugger, but, because I was in contact with an enemy force, the 50 Grid Line no longer held the same meaning for me. Once I was told to go into that Southern airfield and once I was fired upon. A commander who is contact with an enemy force that has fired at him has the right to return fire. Thats how I viewed the situation.
- BG H: Where any logs or graphics of that action, do you have any of those that I might not have?
- LTC D: I don't think so. My Squadron command tactical operations center vehicle went down just prior to that

SHORN TESTIMONY OF LTC DALY, CONTINUED:

CPT C: If you could initial on the waiver...and also, you need to sign the signature of interviewee. Sir, if you could sign that as interviewer...SSG Shaver, if you could sign that as a witness...Sir, for the record, I'd like to remind you that you have been placed under oath.

LTC D: Check.

CPT C: Sir?

BG H: Okay, CPT Friesen, when we talked to him a few minutes ago, said that at some point in time, that night in Iraq, you had mentioned to him to "Keep this under your hat." Did you say that and if so what did you mean by that?

LTC D: Sir, I don't recall saying that. If I said anything like that it was that I didn't want rumors to be running through the troop prior to the investigating officer arriving. The regiment... again, we were on the move. We were involved in a campaign that was

SWORN TESTIMONY OF LIEUTENANT COLONEL JOHN H. DALY, CONTINUED:

BG H: identified himself?

LTC D: No sir. It wasn't when the lieutenant identified himself that we knew that they were Americans, it was when CPT Vincencia ran back and told me they're Americans, at that point I called the regimental commander.

BG H: So there was never any confusion after that?

LTC D: Once he said they were Americans there was no confusion at all.

BG H: And there was no attempt to report it any other way by any person that you know of?

LTC D: No sir.

BG H: There was some testimony by CPT Freisen, that you had said to him to "keep this under your hat." Who heard that and what did you mean, what can you tell me about that conversation?

LTC D: Soldiers like to talk and rumors get started very easily in an organization. What I told Freisen was not to talk to anybody until we had an investigator here, because I knew by the time spoke to Freisen. The Regimental Commander had told me to freeze everything in place and that he was sending an investigator

SWORN TESTIMONY OF LIEUTENANT GENERAL RONALD H. GRIFFITH,
CONTINUED:

- LTG G: after he left I told him I'd go out there and check it out and see what it was. If it was the same airfield I personally went up to the airfield in my HUMMV.
- BG H: It is a little confusing, because there are two airfields in that general vicinity about 20kms apart out in the middle of the desert. So, witnesses are sometimes are confusing the two and I'm not sure. Obviously, you either passed over or our your troops passed over that airfield or very near it.
- LTG G: Yes, I think that the elements of our 2d Brigade crossed directly over it, but I could not be certain about that.
- BG H: And it is clear that 1st Armored Division reported back to the 3d Armored Cavalry Regiment that they felt the airfield was cleared?
- LTG G: Right.
- BG H: Sir, do you have anything further to add?
- LTG G: No, I don't have anything further. That is all I know at first hand. Again I would like to emphasize that there was plenty of discussion and it should have been absolutely clear in those discussions between us and the 3d Armored Cavalry Regiment, because at that time we were not vague about the airfield. Because we were .

SWORN TESTIMONY OF LIEUTENANT GENERAL RONALD H. GRIFFITH,
CONTINUED:

LTB G: not talking about whether or not it was one or two
airfields. We were talking about a specific grid on the
ground. Again, we made it clear that we had people in
that area and that we did not want firing in that area
because we had people on the ground in that area.

BG H: O.K. sir, thank very much for your statement.

SWORN TESTIMONY OF COLONEL DOUGLAS H. STARR, CONTINUED:

COL S: directly on the boundary and that was what cause me to ask for it.

BG H: Did you know the reason why the buffer zone was denied?

COL S: I was not told the first time why the buffer zone was denied, but I asked that question. At the same time I asked my folks to go back and emphasize the need for the buffer zone and the boundary shift. I guess I ought to depart from here for just a second, we have been using interchangeably the term buffer zone and boundary shift, when in actuality what we had asked for was an extension of the zone of 5 kilometers deep or South and of a certain width and I can't remember exactly but we drew the box on the map and I was very clear to the 1st Armored Division, but they denied that. I asked why and I asked for it again, but when they came back and indicated that I could not have it, that indicated to me in terms that they could not be certain whether they had any troops there.

BG H: Do you recall if you passed that information to the squadrons?

COL S: I passed to them the fact that we could not have the boundary shift. The reason why we could not have the boundary shift was because the 1st Armored Division

SWORN TESTIMONY OF COLONEL DOUGLAS H. STARR, CONTINUED:

COL S: like everyone else could not account for every vehicle.

I passed that to the 3d Squadron at the same time that I changed the graphics and the order to move North bound through the new access West - East.

BG H: Can you recall if that was in an personal conversation between you and LTC Daly or was that TOC to TOC?

COL S: It was all three, TOC to TOC, it was my S-3 to the 3d Squadron operations officer and right before the LD time my S-3 and I drove over there in Bradleys and met with both the 3d Squadron S-3 and the 3d Squadron Commander and went over the new graphics which comprised of an attack West - East and reaffirm the sanctity of the original boundary which I think was the 50 grid line.

BG H: Did LTC Daly back brief you on his plan?

COL S: In an informal sense, yes he did. I questioned him at some length how he was positioning forces to do that.

BG H: When you changed your attack plan what was your assessment of the battle field at that time and the enemy situation?

COL S: Well, it was very uncertain I think everyone was a little perplexed as to why we were not meeting more resistance and encountering more enemy. We had no indication that

SWORN TESTIMONY OF COLONEL DOUGLAS H. STARR, CONTINUED:

COL S: the airfield would be occupied, but we knew that if there were any likelihood of encountering resistance that it would be out of that built up area of the airfield.

BG H: So based on the 1st Armored Division's report that they had passed near that airfield and the OH58D recon and the intelligence situation you felt that there may be or may not be enemy on the objective?

COL S: To my knowledge both then and ~~now~~ know, no one had passed through that airfield. We had done some aviation reconnaissance, but of course I had no troops on the ground out there. I had no reason to believe that there was enemy out there but again like I said because of the fluid nature of this situation and our wondering where the Iraqi troops were. We thought that if we did run into any enemies that night it would be at that airfield.

BG H: You decided to go ahead and fire the artillery prep. Did you offset that some or did you go ahead and fire it because of the uncertain enemy situation? What was your thinking on the prep?

COL S: My thinking was that it was a likely enemy location it was in fact an objective and it was just logical



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS FORCES COMMAND
FORT MCPHERSON, GEORGIA 30330-6000



FCJA

14 April 1992

MEMORANDUM FOR FIRST LIEUTENANT KEVIN J. WESSELS, EXECUTIVE
OFFICER, HEADQUARTERS AND HEADQUARTERS
COMPANY, 54TH ENGINEER BATTALION, WILDFLECKEN,
GERMANY, APO NY 09026

SUBJECT: Memorandum of Admonition

1. It has come to my attention that while serving as the Executive Officer, Company C, 54th Engineer Battalion, during Operation DESERT STORM, elements of Company C were under your command while you were located south of an Iraqi airfield waiting recovery of your disabled vehicle. During the early morning hours of 27 February 1991, elements of the 3d Armored Cavalry Regiment took action to secure this airfield which resulted in the death of one of the soldiers under your command, Corporal Lance Fielder.

2. A review of the Report of Investigation into this matter reveals that you should have been more diligent in the execution of your duties and responsibilities concerning defensive measures against an enemy attack. Your failing may have indirectly contributed to this tragic incident. You are admonished for your inattention to detail.

3. This admonition is imposed as an administrative measure and not as punishment under the provisions of Article 15, UCMJ, and I am not making it a part of your official military records. However, I expect you to take appropriate corrective action.

EDWIN H. BURBA, JR.
General, USA
Commanding General

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 13



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS FORCES COMMAND
FORT MCPHERSON GEORGIA 30330-6000



FCJA

14 April 1992

MEMORANDUM THRU COMMANDER, U.S. ARMY AIR DEFENSE ARTILLERY
CENTER AND FORT BLISS, FORT BLISS, TX
79916-0058

FOR CAPTAIN BODO H. FRIESEN, CHIEF, TRAINING DIVISION,
DIRECTORATE OF PLANS, TRAINING, MOBILIZATION AND
SECURITY, FORT BLISS, TX 79916-0058

SUBJECT: Memorandum of Reprimand

1. It has come to my attention that while serving as Commander, I Troop, 3d Squadron, 3d Armored Cavalry Regiment during Operation DESERT STORM, elements of your command conducted a combat assault on a neighboring airfield during the early morning hours of 27 February 1991. During this assault, elements of Company C, 54th Engineer Battalion, were engaged resulting in the death of Corporal Lance Fielder.
2. A review of the attached report of investigation reveals that you were negligent in executing your mission. After reviewing the report, I have a sound appreciation for the conditions at the time. It is my understanding that you were working with old maps, in bad weather, and at night. I also realize that you were conducting maneuver operations along a Corps boundary, which is difficult under circumstances of precise friendly locations and high fidelity communication, circumstances not attendant to your situation. You were further challenged with severe sleep deprivation, having to conduct this complex operation as your first fire fight under night vision device conditions, receiving erroneous spot reports of incoming fire and accommodating to adjacent friendly forces with inadequate and non-operating anti-fratricide devices.
3. Despite these extenuating conditions, I am unable to explain or excuse the death of Corporal Fielder as an unfortunate incident of war. By negligently failing to ensure that you did not violate the Corps boundary on your right flank, you indirectly contributed to this tragic incident.
4. This reprimand is imposed as an administrative measure and not as punishment under the provisions of Article 15, UCMJ. You

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 14

FCJA

SUBJECT: Memorandum of Reprimand

are directed to acknowledge receipt of this reprimand. You have 30 days from the date of this Reprimand to make any statement you wish me to consider concerning this matter. I have not decided if this letter will be filed in your Official Military Personnel File. I will make that decision after receipt of your acknowledgment and a review of any statement that you may elect to make, or the lapse of thirty days without receipt of any statement, whichever is sooner.



EDWIN H. BURBA, JR.
General, USA
Commanding General



DEPARTMENT OF THE ARMY
HEADQUARTERS FORCES COMMAND
FORT MCPHERSON, GEORGIA 30330-6000



REPLY TO
ATTENTION OF

FCJA

14 April 1992

MEMORANDUM THRU

COMMANDER, XVIII AIRBORNE CORPS AND FORT BRAGG,
FORT BRAGG, NC 28307-5000

COMMANDER, 3D ARMORED CAVALRY REGIMENT, FORT BLISS, TX
79916-0058

FOR LIEUTENANT COLONEL JOHN H. DALY, JR., -3D SQUADRON,
3D ARMORED CAVALRY REGIMENT, FORT BLISS, TX 79916-0058

SUBJECT: Memorandum of Reprimand

1. It has come to my attention that while serving as Commander, 3d Squadron, 3d Armored Cavalry Regiment during Operation DESERT STORM, elements of your command conducted a combat assault on a neighboring airfield during the early morning hours of 27 February 1991. During this assault, elements of Company C, 54th Engineer Battalion, were engaged resulting in the death of Corporal Lance Fielder. A review of the attached report of investigation reveals that you erred in judgment during the execution of your mission.
2. After reviewing the report, I have a sound appreciation for the conditions at the time. It is my understanding that you were working with old maps, in bad weather, and at night. I also realize that you were conducting maneuver operations along a Corps boundary, which is difficult under circumstances of precise friendly locations and high fidelity communication, circumstances not attendant to your situation. You were further challenged with severe sleep deprivation, having to conduct this complex operation as your first fire fight under night vision device conditions, receiving erroneous spot reports of incoming fire and accommodating to adjacent friendly forces with inadequate and non-operating anti-fratricide devices.
3. Despite these extenuating conditions, I am unable to explain or excuse the death of Corporal Fielder as an unfortunate incident of war. The file reveals that you failed to give appropriate consideration to the fact that you had friendly units on your right flank and did not take reasonable steps to identify the elements you encountered before authorizing them to be engaged.

Sends Permanent Subcommittee
on Investigations

EXF 3 15

FCJA

SUBJECT: Memorandum of Reprimand

4. This reprimand is imposed as an administrative measure and not as punishment under the provisions of Article 15, UCMJ. You are directed to acknowledge receipt of this reprimand. You have 30 days from the date of this Reprimand to make any statement you wish me to consider concerning this matter. I have not decided if this letter will be filed in your Official Military Personnel File. I will make that decision after receipt of your acknowledgment and a review of any statement that you may elect to make, or the lapse of thirty days without receipt of any statement, whichever is sooner.

A handwritten signature in black ink, appearing to read "Edwin H. Burba, Jr.", with a stylized flourish at the end.

EDWIN H. BURBA, JR.
General, USA
Commanding General



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS FORCES COMMAND
FORT MCPHERSON, GEORGIA 30330-6000



FCJA

14 April 1992

MEMORANDUM FOR Colonel Douglas H. Starr, Retired,
69046 Stone Street, Richmond, MI 48062

SUBJECT: Memorandum of Reprimand

1. It has come to my attention that while serving as Commander, 3d Armored Cavalry Regiment during Operation DESERT STORM, elements of your command conducted a combat assault on a neighboring airfield during the early morning hours of 27 February 1991. During this assault, elements of Company C, 54th Engineer Battalion, were engaged resulting in the death of Corporal Lance Fielder. A review of the attached report of investigation reveals that you erred in judgment during the execution of your mission.

2. After reviewing the report, I have a sound appreciation for the conditions at the time. It is my understanding that the 3D Squadron, 3D Armored Cavalry Regiment was working with old maps, in bad weather, and at night. I also realize that they were conducting maneuver operations along a Corps boundary, which is difficult under circumstances of precise friendly locations and high fidelity communications, circumstances not attendant to their situation. They were further challenged with severe sleep deprivation, having to conduct this complex operation as their first fire fight under night vision device conditions, receiving erroneous spot reports of incoming fire and accommodating to adjacent friendly forces with inadequate and non-operating anti-fratricide devices.

3. Despite these extenuating conditions, I am unable to conclude that the death of Corporal Fielder was the result of an unfortunate incident of war. You exercised poor judgment by not having your staff insist on the receipt of more detailed information on adjacent units, ensuring subordinate receipt acknowledgement of information reference those units, and by the absence of your command presence not ensuring your subordinate commanders took appropriate safeguards to avoid such tragic results.

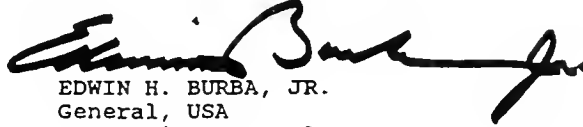
SENATE Permanent Subcommittee
on Investigations

EXHIBIT 4 16

FCJA

SUBJECT: Memorandum of Reprimand

4. This reprimand is imposed as an administrative measure and not as punishment under the provisions of Article 15, UCMJ. You are directed to acknowledge receipt of this reprimand. You have 30 days from the date of this Reprimand to make any statement you wish me to consider concerning this matter. I have not decided if this letter will be filed in your Official Military Personnel File. I will make that decision after receipt of your acknowledgment and a review of any statement that you may elect to make, or the lapse of thirty days without receipt of any statement, whichever is sooner.



EDWIN H. BURBA, JR.
General, USA
Commanding General

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EXHIBIT # 17

6 May 1992

MEMORANDUM FOR General Edwin W. Burba, Jr.
Commanding General, Forces Command
Fort McPherson, Georgia 30330-6000

SUBJECT: Acknowledgement of Receipt of and Statement regarding
Memorandum of Reprimand dated 14 April 1992.

1. I hereby acknowledge receipt of subject Memorandum and do, in fact, wish to make a statement regarding it, which is contained herein.

2. As a combat arms officer for just short of 25 years, I have matured in a military service that has steadfastly embraced the precept that holds a commander "ultimately responsible for all his unit does or fails to do." While harsh and unequivocating, that precept underscores appropriately the fundamental responsibility for a command that the commander, and the commander alone, shoulders. To that end, I have accepted and continue to accept full responsibility for the tragic circumstances surrounding the attack on elements of Company C, 54th Engineer Battalion and the consequent death of Corporal Lance Fielder.

3. Had, Sir, your Memorandum of Reprimand, odious as I may have considered it as a soldier who considers such a document a personal as well as a professional slap in the face, addressed my responsibility for the incident from the above overall command responsibility perspective, I would have had no choice but to quietly and bitterly accept it, just as all commanders must. But the Memorandum of Reprimand you signed on 14 April transcends that fundamental responsibility and makes three specific allegations that I, as well as all investigating officers that have plumbed the depths of this incident, feel are not factually correct and are simply not corroborated by the evidence or by testimony. These allegations will be addressed individually below.

4. That I "exercised poor judgement" by "not having [my] staff insist on the receipt of more detailed information on adjacent units" The facts are that I made every conceivable effort to develop just such information - by radio, by TACSAT, by dispatching my own Command and control helicopter, through the artillery chain, and by means of utilizing the 1st Armored Division liaison officer in my TOC. The voluminous testimony associated with my request of 1st Armored Division for a five-kilometer buffer zone is all directly predicated on 1st Armored Division's own concern over their inability to identify definitively the location of all units - in fact their direct concern that elements of theirs might conceivably be within that buffer zone and on my own knowledge of the fact that no unit at that time could have done so either. I originally asked for the buffer zone to insure that this widespread and under-

standable lack of precision on subordinate unit locations would be appropriately accounted for in the attack. 1st Armored Division's inability to grant that buffer zone to my unit --- on two separate occasions --- reinforced my concern over the possible presence of friendly troops and directly led to my alteration of the attack plans, to include the artillery preparation. Given the time available to me from receipt of orders to their execution, I used --- in most cases more than once --- every single means at my disposal to ascertain information on adjacent units and I did so throughout the time available. My inability to be confident of information on adjacent units was directly responsible for my decision to cancel any preparatory fires south of the 50 grid line and to alter the attack azimuth from a north-to-south to a west-to-east direction with the 50 grid line comprising the southern boundary of the attack by 3d Squadron. Absolutely nothing in the voluminous testimony even remotely suggests that friendly information was pursued in anything but the most vigorous manner. Even in calm and clinical retrospect, the information that was obtained was, in fact, accurate (that 1st Armored Division could not be sure that it did not have units within the requested five-kilometer buffer zone) and the information and orders disseminated to subordinate units duly excluded that zone from any use. Subordinate units were told that the requested buffer zone was twice denied and it ^{was} that very refusal that caused the changes in attack plans. Hypothetically, had the 1st Armored Division been able to state categorically that elements of Company C were in fact where they were later tragically ascertained to be, the attack graphics would have remained the same --- all that would have changed would have been a specific location for them disseminated to subordinate units and an accompanying specific reinforcement of the normal and well-understood disciplines regarding unit boundaries. The tragic error in this case is not in 1st Armored Division being unable to pinpoint every unit (no unit could have at that point and the Division responsibility reflected that inability in their steadfast refusal of the buffer zone), or in the intensity of 3d Armored Cavalry's pursuit of information (information which we now know was simply not available regardless of how intensely it may have been pursued), but in the inability of the Regiment to properly recognize a friendly unit on the battlefield in time to prevent tragedy.

5. That I "exercised poor judgment" by not "ensuring subordinate receipt acknowledgement of information reference those units." The facts are that virtually all information on the locations of friendly units, largely comprised of the knowledge that the possibility existed that 1st Armored Division forces might be in the previously-requested buffer zone, was passed to subordinate units as the very reason why the attack plans were being changed. No speculation on the existence of friendly troops was offered because that is precisely what it would have been --- speculation. Instead, subordinate units were told that the buffer zone was cancelled and the 50 grid line boundary was reinforced. I deemed the criticality of this information so vital that prior to the attack I took my Command Group, made up of four Bradley Fighting Vehicles, to the

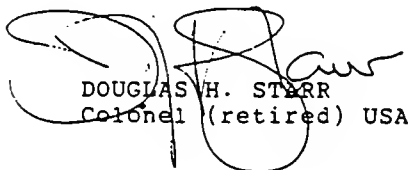
location of the 3d Squadron Command Group and met with both LTC Daly and MAJ Martin. LTC Feil and I went over the attack graphics with the 3/3 Command Group at that time along with the fact that 1st Armored Division had refused the Regiment's request for a buffer zone because of uncertainty over definitive subordinate unit locations. This information was, of course, also sent by radio (FRAGORD) to the 3/3 TOC (as well as the rest of the Regiment) and receipted by that unit. My colocation and map comparison with the 3/3 Command Group stemmed from my concern over the change in plans and that it have been duly assimilated in the Squadron's attack plan. I again stress that the tragic error in this case is not in my ensuring receipt of what we knew of the friendly situation --- we knew very little indeed other than the only specifically pertinent fact: That the 50 grid line remained our boundary. To that end, I moved the Regimental Command Group to colocate with the Squadron Command Group before the attack to insure myself that the Squadron had all of the information available. Having had the 3/3 Commander brief me on how he intended to deploy his Squadron, and being satisfied with that, I directed that movement of the Regiment commence. Again, the tragic error is in failing to recognize a friendly unit on the battlefield in time to prevent tragedy.

6. That, "by the absence of [my] command presence not ensuring [my] subordinate commanders took appropriate safeguards to avoid such tragic results." The facts are, as partially delineated above, I recognized exactly where my command presence was most needed and positioned myself there early-on ---first to go over first-hand with the executing commander the new plan and receive his concept of how he intended to implement that plan and then throughout the movement and the attack so as to maintain communications with the attacking commander. I positioned my command group in the leading edge and to the left (north) of the attacking squadron so as to place myself in a position to both observe the attack personally and to ensure uninterrupted communications with the balance of the Regiment and with the Regimental TOC which, with its communications, was my link to higher headquarters. As the events of that night unfolded, my decision as to where to position myself was all too correct. I was less than a few kilometers from where the incident took place, could see the tracers, and received Squadron SITREPS throughout. Unfortunately my "command presence" was not enough to prevent the fateful events as they unfolded. I travelled with the unit, monitored a variety of their nets (Troops as well as Squadron) as we moved with my third radio, and watched what I could of their tactical movement given the very poor visibility. I neither saw nor heard any indication of "inappropriate safeguards to avoid...tragic results." The unit was agile and smooth, aggressive while cautious...They were a unit of well-trained young Americans going into battle for the first time. Again, I stress that the tragic error in this case is not where I placed myself on the battlefield but on the forces in contact failing to recognize a friendly unit quickly enough to prevent tragedy.

7. Again, Sir, I commanded the Regiment during the period in question and, as such, hold myself responsible for its actions and inactions...but I am categorically not guilty of the lapses in judgement with which you charge me...not guilty by virtue of careful review of the lengthy testimony, not guilty by careful review of my actions that night against the template of all that I know to be sound leadership, and not guilty based on the facts of the incident.

8. I respectfully request your considered review of the case --- not of the executive summary or of the legal opinion --- but of the facts of this tragic case as presented by the investigating officer. They do not, even given the considerable media sensationalism and the equally considerable pressures attendant to this heartbreaking case, substantiate the judgemental errors which you ascribe to me.

9. I request --- also respectfully --- that the 14 April Memo be rescinded since I know after your review you will find it both factually incorrect and professionally inappropriate. If the situation is such, as I am given to believe it is, that "something must be done," then I humbly ask that a letter of Reprimand be written to me that fixes responsibility on me for what really happened --- the command of a unit that made a mistake which resulted in the tragic loss of life of a fine American trooper. That Memo, unlike this one, is substantiated by the testimony, factually and philosophically supportable, and professionally appropriate---hard, but fair.



DOUGLAS H. STERR
Colonel (retired) USA



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY EXHIBIT # 18
HEADQUARTERS, 3D ARMORED CAVALRY REGIMENT
FORT BLISS, TEXAS 79916-2418

Senate Permanent Subcommittee
on Investigations



COMMANDER, THIRD SQUADRON

26 MAY 1992

MEMORANDUM THRU

COMMANDER, 3D ARMORED CAVALRY REGIMENT, FORT BLISS, TX
79916-0058

COMMANDER, XVIII AIRBORNE CORPS AND FORT BRAGG, FORT BRAGG,
NC 28307-5000

FOR COMMANDER, FORCES COMMAND, FORT MCPHERSON, GA 30330-6000

SUBJECT: Memorandum of Reprimand

1. I am responding to your memorandum of reprimand, dated 14 April 1992.
2. I realize a commander is responsible for everything his unit does or fails to do. The purpose of this response is not to seek to escape from the responsibilities of command, but rather to ask that my actions be judged in light of the facts and circumstances as we knew them at the time. There have been two investigations of this incident. The first was conducted immediately after and on the site of the incident. The second was conducted over a seven month period by a general officer. Both concluded that I did everything "reasonable and appropriate under the existing circumstances" to prevent any unnecessary loss of human life.
3. Many of the reasons that argue against the imposition of any action against me in this matter are contained in the second paragraph of your memorandum of reprimand. There are additional facts that I ask you to consider as well. The general officer who conducted the investigation into the circumstances surrounding the events of 27 February 1991, Brigadier General Halley, pointed out these facts in recommending that "all personnel involved be absolved of any criminal or administrative responsibility."
4. On a dark, rainy night when visibility was near zero, it was my Squadron's mission to conduct an attack against what we fully expected to be an airfield occupied by Iraqi

AFVF-KCDR

SUBJECT: Memorandum of Reprimand

forces. We had no reason to believe that the only forces we would find in this area were U.S. forces. The intelligence we received indicated that we could expect to encounter up to a battalion of Iraqi soldiers, including the first belt of the Republican Guard. It is easy to lose sight of the fact that my Squadron was not the right flank Squadron until we were committed to the attack. Neither the First Squadron in our passage of lines coordination nor the Regiment gave me any indication there was anyone other than the enemy on or near my objective. Based on this information, we concluded, as did BG Halley, that the 'only prudent course of action to minimize potential U.S. casualties was to attack the airfield as if enemy was present.'

5. Your memorandum specifically refers to two failures on my part, a failure to give appropriate consideration to the fact that I had friendly units on my right flank and a failure to take reasonable steps to identify the elements we encountered as friendly forces before we engaged them.

A. First, there were no indications there were units directly on the Regiment's right flank. Neither the Regiment nor First Squadron had physical contact with 1st AD. Had such a contact been made, First Squadron would have sent scouts out to the flank to make contact, radio contact would have been established with the unit on the flank, or loss of contact would have been reported. I would have learned of any of these actions, had they occurred, during my passage of lines. The only information available to me indicated that 1st AD was somewhere to the south, to the right and rear of First Squadron. The discussions about the buffer zones never gave me any indication that there were friendly units in our vicinity.

B. Second, any suggestion of a failure to take responsible steps to identify the elements south of the airfield is contrary to the findings of the previous investigations. In the conclusions to his investigation, BG Halley found that a warning shot was ordered and fired; that direct fire was not ordered until it was believed that we were being fired upon; that I stopped the attack, personally went to the scene, and ordered a PSYOPS team to broadcast a message; and that I only ordered a short burst to be fired when I thought 'the suspected Iraqis had returned fire, had rejected the chance to surrender, and were trying to escape or occupy fighting positions.' Commanders in the middle of a battle must not be expected to arrive at the same measures that a committee might arrive at after months of study.

AFVF-KCDR

SUBJECT: Memorandum of Reprimand

In this instance, however, after more than a year to consider the facts, no one has presented any steps that we could have taken that night that would not have placed my own soldiers in serious jeopardy considering the situation as we thought it to be.

6. BG Halley found several reasons why the engineer unit involved was not identified by me or my soldiers. Perhaps the most telling factor was the absence of the USCENTCOM anti-fratricide devices on the engineer vehicles. The failure of the engineer personnel to wear Kevlar helmets or Load Bearing Equipment that would have been recognized through the thermal sights we were forced by the condition to use also contributed to this 'unfortunate' incident. The placement of an objective that crossed Corps boundaries obviously lead to the units coming together at this location in the first place.

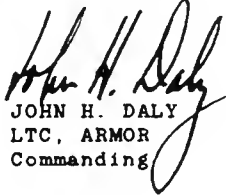
7. In spite of all these factors, I still believe that the steps we took with the information we had were the right ones. Even with the advantage of hindsight, BG Halley said, my actions and decisions "were reasonable and appropriate under the existing circumstances." We did not fire on any unit in the area until after we had fired a warning shot and had received a report of enemy fire from the vehicles of that unit. We used all resources available to us, including PSYOPS speakers, in an attempt to prevent the unnecessary loss of human life. In the final analysis, on 27 February 1991 at an airfield inside enemy territory, I had to take steps to prevent what I thought would be anti-tank fire directed at my own soldiers. I considered the responsibility to protect the lives of my soldiers a sacred trust that required my best efforts. Even with that in mind, we violated no Army doctrine or Rules of Engagement.

8. I respectfully request that you consider rescinding your memorandum of reprimand. In good conscience I feel that I must ask you to reconsider given the circumstances as we knew them. I believe that this tragedy was truly "an unfortunate incident of war". If you can not reach this conclusion given the additional comments in this letter, then I ask you to consider my past performance and potential for further service and file this in my Military Personnel Records Jacket.

AFVF-KCDR

SUBJECT: Memorandum of Reprimand

9. Nothing that can happen from this point on will prevent the deep sense of loss I feel as a result of fires from my vehicle that resulted in the death of an American soldier. I grieve for the friends and family of Corporal Fielder, and would do anything to be able to undo the events of 27 February 1991. Because that is not possible, I will carry this burden forever.



JOHN H. DALY
LTC, ARMOR
Commanding



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 3D ARMORED CAVALRY REGIMENT
FORT BLISS, TEXAS 79916-2418

Sanitized Permanent Subcommittee
on Investigations



AFVF-C

27 MAY 1992

MEMORANDUM THRU

COMMANDER, XVIII AIRBORNE CORPS AND FORT BRAGG, FORT BRAGG,
NC 28307-5000

FOR COMMANDER, FORCES COMMAND, FORT MCPHERSON, GA 30330-6000

SUBJECT: Memorandum of Reprimand

1. I have reviewed BG Halley's report into the tragic incident involving LTC John Daly. Based upon the report's findings and my own knowledge of LTC Daly, I recommend that no permanent or adverse action be taken against this very promising squadron commander.
2. In the 12 months that LTC Daly has served as a commander under my command, he has demonstrated all the personal and professional attributes which the Army requires in its senior leadership. I believe that LTC Daly is capable of major, continued contributions to our Army.
3. I respectfully and strongly request that you not place your memorandum of reprimand in his Official Military Personnel File.


ROBERT R. IVANY
COL, ARMOR
Commanding

Senate Permanent Subcommittee
on Investigations



REPLY TO
ATTENTION OF:

AFZA-CG

DEPARTMENT OF THE ARMY
HEADQUARTERS, XVIII AIRBORNE CORPS AND FORT BRAGG
FORT BRAGG, NORTH CAROLINA 28307-5000

EXHIBIT # 20

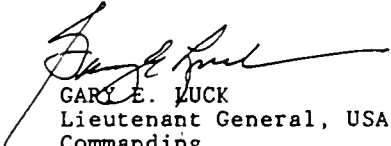


4 June 1992

MEMORANDUM FOR Commander, Forces Command, Fort McPherson, GA
30330-6000

SUBJECT: Memorandum of Reprimand Concerning Lieutenant Colonel
John H. Daly, Jr.

1. Following a review of LTC Daly's statement and after considerable thought, I believe there are sufficient grounds to support his request.
2. The circumstances surrounding most tragic events in combat do not always provide us with cut and dry answers. I feel this is the case here. To that end, and considering the totality of LTC Daly's contributions and potential for future service, I respectfully request you rescind the letter of reprimand. Should you not be able to support that course of action, I recommend the letter of reprimand not be filed in his official military personnel file. Regardless, I fully support whatever decision you make.


GARY E. LUCK
Lieutenant General, USA
Commanding

Senate Permanent Subcommittee
on InvestigationsEXHIBIT # 21

Captain B. H. Friesen
3112 Flax St.
El Paso, Texas 79925

21 June 1992

MEMORANDUM FOR COMMANDER, FORCES COMMAND, FORT MCPHERSON, GEORGIA
30330-6000

SUBJECT: Statement Pertaining to Memorandum of Reprimand

1. Reference Memorandum of Reprimand for Captain B. H. Friesen, from Commander, Forces Command, dated 14 April 1992, received 29 May 1992.
2. I strongly protest my receipt of a reprimand for alleged negligence on 27 February 1991 contributing to the fratricide death of Corporal Douglas Fielder. I request that it be revoked.
3. Negligence is defined as "failure to use a reasonable amount of care when such failure results in injury or damage to another." I was not negligent at any time before, during or after the attack on the airfield. I and my unit acted responsibly and with care in all instances.
4. In light of the information provided to me by my superiors, I acted with extreme caution. My squadron commander, Lieutenant Colonel John Daly, neglected to inform me of the location of the corps boundary. He also told me that we would be the most forward friendly unit in the area and that the airfield we were attacking was defended by a dug in battalion of Iraqi soldiers. He made no mention of possible friendly forces in the area, or that the VII Corps was already 12 hours ahead of us. He stated that our objective was seven kilometers past the forward line of friendly forces.
This clearly indicated to me that we would not encounter friendly forces at any time during our operation.
5. LTC Daly directed the use of a diamond assault formation to clear the airfield. This formation placed maximum tank firepower forward, with lighter scout vehicles securing the flanks. This formation had no reconnaissance force whatsoever to the front. Its sole purpose was to destroy confirmed enemy positions. Why did LTC Daly use this formation if he knew we were operating near a corps boundary with the possibility of friendly forces in the area? He sent his squadron on a blind attack into an area where he was uncertain of the situation. Scout platoons should have proceeded the squadron into the area. Failure to do so was a violation of basic tactical principles. Use of this formation confirmed in my mind that we would encounter heavy resistance by Iraqi forces on the airfield.

SUBJECT: Statement Pertaining to Memorandum of Reprimand

6. My actions on the airfield itself were carefully thought out and correct in every respect. I did not engage until after LTC Daly had granted permission for me to do so. I then fired only warning shots, well away from the group of soldiers. Upon receiving returned small arms fire, I and two other vehicles from my troop briefly suppressed our opponents. We did not kill any soldiers from the engineer unit. LTC Daly himself fired the fatal shots after I had called cease fire several times over the troop radio net. My executive officer relayed this command over the squadron radio net on each occasion. LTC Daly himself made several statements during the 15-6 investigation confirming that I gave this command.

7. Although our thermal imaging systems presented a clear picture, they could not differentiate colors. This made it impossible to recognize coalition markings on the engineer vehicles. The U.S. Central Command Anti-Fratricide SOP (dated December 1990) provided night recognition signals. Unfortunately, this SOP was never available at our level throughout the entire war. We never even knew of its existence. Why did Central Command officials not make sure that combat units actually received this important document, instead of just providing lip service to its existence? I and my unit were not able to adhere to a document we had never seen.

8. My troop was not a independent unit, but part of the right flank of the assault formation. We were under LTC Daly's direct control at all times. Why did LTC Daly give me permission to fire warning shots when he knew that we were directly on the VII corps boundary? His doing so only added further credence to my belief that we were facing Iraqis. He had a functioning global positioning system and was acutely aware of our location. Had I been informed of the boundary location, I would have seen on my positioning system that I was close to it and forbidden any shooting.

9. I ordered a cease fire because I believed that we had expended the maximum amount of necessary force. The soldiers, who we still believed to be Iraqis, no longer posed a threat. It was my intention to wait for their surrender. We had much heavier weapons at our disposal and could have destroyed the small group of soldiers in a matter of seconds. Our restraint and clear thinking prevented this. If LTC Daly had not disregarded and overridden my cease fire, Corporal Fielder would still be alive today. Fielder was assisting a fellow soldier to a safer location when LTC Daly shot him. I could see clearly in my thermal sights that neither soldier carried weapons and thus posed no threat. The soldiers also had no place to escape. Our vehicles surrounded them on flat terrain and could easily have outdistanced them. Shooting them was totally unjustified, even if they had been Iraqis.

SUBJECT: Statement Pertaining to Memorandum of Reprimand

10. If LTC Daly and COL Starr had not withheld critical information about friendly force locations and unit boundaries from officers at my level, this incident could have been avoided. Statements by both officers in the 15-6 investigation prove that they were aware of the boundary. COL Starr was acutely aware of friendly forces in the area. Why did they not share this information with their troop commanders? It would have radically changed my thought process and actions on the airfield.

11. Statements by Lieutenant General Ronald Griffith (Commander, 1st Armored Division) and Brigadier General John Hendrix (Assistant Division Commander) both clearly assert that they directed the 3rd Armored Cavalry Regiment to stay away from the corps boundary and airfield because there were friendly elements in the area. They also stated that the 1st Armored Division had cleared the airfield twelve hours earlier. Why were we sent to attack an airfield that had already been cleared? To this day, I still do not know from whom this attack order originated.

12. CPT Wayne Sauer, a liaison officer assigned to 3rd ACR, stated in the 15-6 investigation that he coordinated with 1st Armored Division to obtain a 5 kilometer buffer zone to attack the Umm Hajul airfield. The 1st Armored Division denied this request because their 2nd Brigade trains were in the area. 1st Armored Division also stated that the airfield was already clear. CPT Sauer briefed LTC Michael Keenan (the 3rd ACR Executive Officer) on this information. LTC Keenan passed the information on to COL Starr. Why did this critical information never make it to my level? It would have had a very significant impact on my decision to fire even a warning shot. If COL Starr ordered the attack on the airfield despite the 1st Armored Division's denial, then he is as directly responsible for Corporal Fielder's death as LTC Daly. I believe this to be the case.

13. COL Starr's entire conduct of this operation was poorly thought out and, in my opinion, an effort to claim credit for capturing an airfield. Why were there no contact and/or coordination points along the corps boundary during this operation? I was the southern most troop commander, yet I received no coordination missions. This displayed extremely bad planning and disregard for even the most basic tactical principles on behalf of COL Starr and leaders in the 1st Armored Division. If we had been fighting a more determined foe, he would have split the corps boundary or wreaked havoc in the 1st Armored Division's rear area. As a troop commander, I had no control whatsoever over boundary coordination missions. These were decided at regimental level and higher. If COL Starr had done his job and ensured such coordination, this tragedy would not have occurred.

SUBJECT: Statement Pertaining to Memorandum of Reprimand

14. Despite the fact that both COL Starr and LTC Daly were aware of the corps boundary, the 3rd Squadron's planned attack route swung south through the airfield and penetrated seven kilometers into VII Corps territory. If the squadron had carried out the attack in its entirety, it may well have destroyed a portion of the 2nd Brigade, 1st AD trains. Why did LTC Daly approve this route and disseminate it to his subordinates when he knew where the corps boundary was? Who developed this route? This person also holds a great deal of responsibility in this incident.

15. It is crystal clear that both COL Starr and LTC Daly were aware of both the corps boundary and possibility of friendly forces in the area. Incongruously, they ordered and conducted a violent assault into the Umm Hajul area. I feel these were criminally negligent acts. My actions did not lead to Corporal Fielder's death. On the contrary, I did everything humanly possible to prevent it. Repeated negligence and/or disregard by COL Starr, LTC Daly and possibly other officers beyond my purview of knowledge killed Lance Fielder.

16. If I am to receive this reprimand, then I believe there are many more individuals more deserving of one. Foremost among them are:

- a) The staff officers who drew a corps boundary through the middle of an airfield that was a key objective,
- b) The leadership of both corps for not ensuring coordination along their flanks,
- c) The intelligence officers from whom the misinformation came about a dug in Iraqi battalion on the airfield
- d) The 1st Armored Division leadership for not conducting a proper flank guard operation on an exposed flank and
- e) The 3rd ACR leadership for not ensuring coordination along the corps boundary.

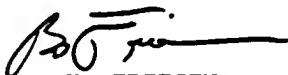
17. The 15-6 investigation findings state that "the Regimental Commander and the Squadron Commander should have placed more emphasis on the proximity of the objective to the boundary, possible friendly forces in the area, why the buffer zone was denied, and why the attack plan was changed. Had the I Troop Commander been fully apprised of all the available information, this regrettable incident could have been avoided." This corroborates everything I have already said.

SUBJECT: Statement Pertaining to Memorandum of Reprimand

18. In conclusion, I maintain that I used a greater than reasonable amount of care during the operation against the air-field. My commander, LTC Daly fail to apprise me of information critical to my mission and fired the fatal shots from his vehicle. COL Starr negligently ordered an attack into an area he knew was occupied by friendly forces. They are the negligent parties responsible for this tragedy. My unit applied a minimum amount of force at all times commensurate with the information we received. I feel thoroughly betrayed by my superiors for not having apprised me of the most basic information I needed to conduct operations. I should not pay for mistakes made by them. I trusted their instructions and they betrayed this trust. They did not ensure proper coordination and planning at their levels and I should not be held responsible for this.

19. I would greatly appreciate information about your final decision regarding this reprimand. I will be at the letterhead address throughout my terminal leave and after my release from the service.

Very Respectfully,



B. H. FRIESEN
Captain, Armor

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 22

FCJA-ML (FCJA/14 April 1992) (600-37) 1st End
SUBJECT: Memorandum of Reprimand

Commander, Forces Command, Fort McPherson, GA 30330-6000 22 Jul 92

THRU Deputy Chief of Staff for Operations and Plans, Department
of the Army, Washington, DC 20310-0400

FOR Commander, Military District of Washington, ATTN: ANPE-MP,
Officer Records, 1900 Half Street S.W., Washington, DC
20314-5050

1. I have reviewed all documents pertinent to my decision to issue a memorandum of reprimand to LTC John H. Daly, Jr., currently in transit pursuant to his permanent change of station from Fort Bliss, TX to DAMO-FD, Pentagon, Washington, DC, formerly Commander, 3d Squadron, 3d Armored Cavalry Regiment during Operation DESERT STORM.

2. I have specifically considered, in making my determination, the statements submitted by LTC Daly (enclosure).

3. Based on my review and consideration, I direct that the memorandum of reprimand, dated 14 April 1992, issued to LTC Daly be filed in his military personnel records jacket for a period of one year from the date that he reports to DAMO-FD.



EDWIN H. SURBA, JR.
General, USA
Commanding General

Encl
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as

CF: LTC John H. Daly

Permanent Subcommittee
on Investigations

23

FCJA-ML (FCJA/14 April 1992) (600-37) 1st End
SUBJECT: Memorandum of Reprimand

Commander, Forces Command, Fort McPherson, GA 30330-6000 22 Jul 92
FOR Captain B. H. Friesen, 3112 Flax Street, El Paso, Texas
79925

1. I have reviewed all documents pertinent to my decision to issue you a memorandum of reprimand.
2. I have specifically considered, in making my determination, the very persuasive statement you submitted.
3. Based on my review and consideration, the memorandum of reprimand, dated 14 April 1992, issued to you is hereby withdrawn. I consider this matter closed.



EDWIN H. BURBA, JR.
General, USA
Commanding General

Senate Permanent Subcommittee
on Investigations

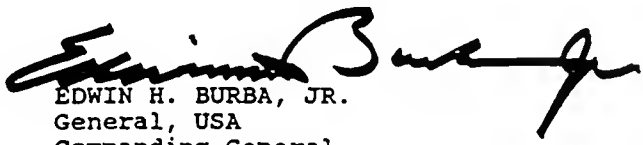
EXHIBIT # 24

FCJA-ML (FCJA/14 April 1992) (600-37) 1st End
SUBJECT: Memorandum of Reprimand

Commander, Forces Command, Fort McPherson, GA 30330-6000 22 Jul 92

FOR Colonel Douglas H. Starr, Retired, 69046 Stone Street,
Richmond, MI 48062

1. I have considered your persuasive arguments.
2. I still find your actions make you sufficiently culpable to warrant the reprimand standing; however, your reply provides additional extenuation and mitigation. Accordingly, the reprimand will not be placed in your military personnel file.


EDWIN H. BURBA, JR.
General, USA
Commanding General



DEPARTMENT OF DEFENSE
HEADQUARTERS, FORCES COMMAND
FORT MCPHERSON, GA 30330-6000

September 1, 1992



REPLY TO
ATTENTION OF:

Commander in Chief

Ms. Debbie J. Shelton
225 Peachtree Street
Nashville, Tennessee 37210

Dear Ms. Shelton:

I am the general officer who had the responsibility to take action on the incident which culminated in the tragic death of your son Lance during Operation DESERT STORM. I overruled the decisions of the investigating officers and the Chain of Command and issued official letters of reprimand to those I found negligent in the incidents surrounding the death of Lance.

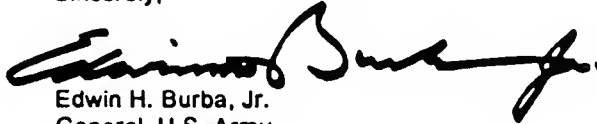
In July, after receiving rebuttal responses from those officers I found culpable, I wrote a long letter to you explaining the rationale for my final decisions. I thought it only fair to receive the culpable officers' responses prior to making my decisions and then writing to you, but this action delayed the process. The decisions were rendered in July shortly before the concentrated media coverage of the tragedy. Due to the timing and atmospherics at the time, I felt my letter to you would totally lack credibility and I elected not to send it.

Now that the media attention has subsided, I feel obligated to express to you the Army's and my own deeply felt personal sorrow over the death of Lance. I know the personal hurt and anger caused by the unnecessary and untimely death of a loved one. Over twenty years ago, my father was killed while still on active duty in an Army aircraft that had not been properly refueled. It ran out of aviation gas and crashed while diverting to a secondary airfield during a thunderstorm. All the goodwill, sympathy, and corrective action will never bring him back nor, to this day, assuage my hurt and anger over how he died. I know you must feel the same way.

I would just ask you to understand the Army is a large institution that, by the scope and complexity of its operations, periodically makes mistakes. As in no other occupation, these mistakes frequently translate into life and death consequences. However, the Army is made up of good people that are trying to do what is right regardless of the circumstances. The squadron commander, although wrong, was trying to do what was right at the time of Lance's death and we have attempted to do what is right in the investigation and disciplinary action associated with this tragic incident.

-2-

I made the final decisions. They were tough calls and I can just say I think I have made the right ones after an exhaustive review of the case. I have spent many anguished days and nights thinking about it--its implications for fairness, for deterrence of such future tragedies and the Army's obligation to win battles and save lives in the next war. If there is more that you wish explained or if there is anything I can do to assist you in anyway, I would be happy to travel to your home to do it.

Sincerely,A handwritten signature in black ink, appearing to read "Edwin H. Burba, Jr.", written in a cursive style.

Edwin H. Burba, Jr.
General, U.S. Army
Commander in Chief

Deborah J. Shelton
225 Peachtree Street
Nashville, Tennessee 37210
(615) 833-1925

September 14, 1992

General Edwin H. Burba, Jr
Commander in Chief
Headquarters, Forces Command
Fort McPherson, GA 30330-6000

Dear General Burba:

I am in receipt of your letter dated September 1, 1992. I was aware of the fact that you overruled prior investigation and decisions, issuing written reprimands to the officers involved in my sons death. However, since I am not privy to their content, or the content of the responses by the officers involved, any comment I could make regarding them would be uninformed and therefore, I believe, irrelevant. Please be advised I am very interested in their content and will be appreciative of any information you will share with me.

General Burba, I have considerable empathy for you in the loss of your father. You see, I am an only child. My mother died in 1984. I buried my father on September 4, 1992, after a long and painful illness where his grief in the loss of his only grandson accelerated the end of his life. I must tell you there is no comparison between the loss of a child and the loss of a parent, no matter the circumstances. I suppose one must be a member of the elite bereaved parents club in order to understand the inappropriateness of such comparisons.

I understand your position very well. You are obviously in a very uncomfortable one to say the least. I also believe I understand the Army is a large institution and the complexity of its operation. I am a patriot in the truest sense of the word. I reared my son in that patriotic tradition. Saving SGT Napier's life and rescuing SPEC Dribbin was the only thing Lance could have done. It was basic to him, not a valorous act. Had he lived and received accolades for it, I am sure his response would have been something like, "what's all the fuss about, I was just doing my job?" We understood, given his MOS in war time, the possibility of injury or death was high, and accidents are always a real possibility. We also understood the price of freedom is never paid in full. What we did not understand and I do not to this day understand is not accepting responsibility for a cowardly act.

The bottom line to me is this: LTC Daly opened fire on an unarmed man assisting a fellow comrade, while under a cease fire he acknowledges he disregarded. This is the act of a coward. Whether during war time or not, it is purely and simply murder. I do not presume to understand battle tactic. However, it seems to me when you open fire, you draw fire. Therefore this was a negligent act for a squadron commander. We were continually told during Operation Desert Storm "this is the humane war. We are saving lives wherever possible. All an Iraqi needs to do is lay down their weapons and they will be spared attack." Either LTC Daly never received these instructions or chose to disregard them.

This is not in the finest tradition of military honor as taught in West Point or in training facilities throughout our country. Never-the-less if this is the way the U S Army intends to deal with cowardice; then step forward, acknowledge it and be responsible so the next group of young men and women the recruiters talk to will understand what to expect.

It is my opinion that the basic "wrong" in this country is a lack of responsibility in our families, our communities and our government. Everyone expects rights and privileges. Along with them goes obligations and responsibilities. Until we all step forward and accept full responsibility for our actions, this great country of ours will continue to erode.

Cordially,



Deborah J. Shelton



DEPARTMENT OF THE ARMY
OFFICE OF THE INSPECTOR GENERAL
1700 ARMY PENTAGON
WASHINGTON DC 20310-1700

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 27



4 August 1994

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY FOR
MANPOWER AND RESERVE AFFAIRS, ATTN:
COL Hamilton

SUBJECT: Revocation of Valorous Awards

The enclosed preliminary analysis revealed
valorous awards were presented to members of the
3d Armored Cavalry Regiment for actions at Qalib Al
Luhays airfield, Iraq, on February 27, 1991.
The incident described in the recommendations for these
awards was one of fratricide and did not involve
contact with an armed enemy.

In accordance with paragraph 6-6, Army
Regulation 672-5-1, award of the "V" device for valor
requires participation in an act of heroism involving
conflict with an armed enemy. Therefore, request
action be taken to revoke these awards. Note that the
actions of these individuals may have been deserving of
recognition other than a valorous award. Also, note
that the award recommendation for Major David J.
Bradshaw includes mention of two incidents on the night
of February 26-27, 1991. It is possible that Major
Bradshaw met the criteria for a valorous award in an
action other than the one at Qalib Al Luhays airfield.

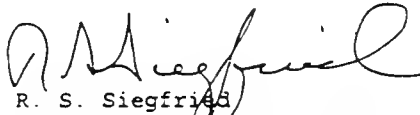
Further, request action be taken to identify and
revoke similar valorous awards improperly authorized
for the incident at Qalib Al Luhays airfield or other
known fratricide incidents.

Due to the sensitive nature of the enclosed
report, please do not duplicate it or include it in any
other record without further coordination with our
records release office. Also, please provide this
report adequate security and return it when no longer
needed.

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EXCEPT AS AUTHORIZED BY AR 20-1.

-2-

Please inform us of the results of your action.
Our point of contact is Colonel Charles Cogswell, (703)
695-7385.


R. S. Siegfried
Major General U.S. Army
Deputy The Inspector General

Enclosure

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SAIG-IN (20-1b)

22 July 1994

MEMORANDUM THRU

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FOR DTIG

SUBJECT: Alleged Impropriety by a Senior Official

1. PURPOSE: To provide DTIG recommendations concerning an alleged impropriety by Major General (MG) Edison E. Scholes, Deputy Commanding General, Allied Land Forces Southeastern Europe (Formerly Deputy Commander, XVIIIth Airborne Corps and Fort Bragg, NC).
2. BACKGROUND: The General Accounting Office (GAO) informed the Department of the Army Inspector General (DAIG) that members of the 3rd Armored Cavalry Regiment (ACR) received valorous awards for participation in an action on 27 February 1991 at Qalib Al Luhays airfield, Iraq, during Operation Desert Storm. This action did not involve contact with an armed enemy. Investigations of that action have revealed that elements of the 3rd ACR were operating out of their assigned boundaries when they fired on a friendly unit, killing one U.S. soldier and wounding two.
3. EVIDENCE:
 - a. Army Regulation (AR) 672-5-1, Military Awards, provided Army policy on awards and decorations.
 - (1) Paragraph 2-15 authorized the award of the Bronze Star Medal (BSM) to any soldier who distinguished himself by heroic or meritorious achievement or service in connection with military operations against an armed enemy.

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(2) Paragraph 6-6 stated the "V" device was to be worn to denote "participation in acts of heroism involving conflict with an armed enemy."

(3) Paragraph 1-28a stated an award could be revoked by the awarding authority "if facts subsequently determined would have prevented original approval of the award had they been known at the time." In deciding to revoke an award, the awarding authority must consider comments from the individual concerned. Awarding authorities can refer decisions to the Commander, Total U.S. Army Personnel Command (PERSCOM) and individuals can appeal decisions to PERSCOM. (TAB 1)

b. Commander, U.S. Army Central Command (COMMUSARCENT) message, dated 221926Z Jan 91, subject: Delegation of Wartime Award Approval Authority, delegated the authority to award the Bronze Star Medal to commanders in the rank of Major General or higher. (TAB 2)

c. Headquarters (HQ), XVIIIth Airborne Corps and Fort Bragg permanent orders # 83-87, dated 2 May 1991, awarded the BSM with "V" device to Sergeant (SGT) Kenneth Shumate for "heroism involving conflict with an armed enemy" on 27 February 1991. A review of the awards packet revealed:

(1) The awards packet contained a Recommendation for Award (DA form 638) signed by Captain (CPT) Patrick J. Venezia, a statement by CPT Venezia, a narrative justification, an awards board worksheet signed by MG Scholes recommending approval, and a BSM certificate.

(2) The proposed citation on the handwritten DA form 638 stated SGT Shumate dismounted to take prisoners "in the face of hostile fire" and with "reported enemy fire and burning vehicles" to his front. SGT Shumate was also credited with saving the lives of at least 4 American soldiers.

(3) The statement and supporting narrative clarify that, while SGT Shumate's unit originally thought they were in contact with the enemy, once on the ground SGT Shumate and CPT Venezia discovered that the reported enemy were, in fact, fellow U.S. soldiers.

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(4) According to the DA form 638, the statement, and the narrative, these actions occurred at Qalib Al Luhays Airfield, Iraq, at 0200, 27 February 1991.

(5) The BSM certificate contained a generic description of SGT Shumate's accomplishments on 27 February 1991 without referring to Qalib Al Luhays Airfield. (TAB 3)

d. HQ, XVIIIth Airborne Corps and Fort Bragg permanent orders # 83-106, dated 2 May 1991, awarded the BSM with "V" device to CPT Venezia. A review of the awards packet revealed:

(1) The awards packet contained a handwritten DA form 638 signed by Lieutenant Colonel (LTC) John Daly, Commander, 3/3 ACR, a handwritten statement signed by Staff Sergeant (SSG) Diego Wolborsky, a handwritten statement signed by SGT Patrick P. Nelson, a handwritten narrative, a first endorsement recommending approval signed by Colonel (COL) Douglas Starr, Commander, 3rd ACR, an awards board worksheet signed by MG Scholes recommending approval, and a BSM certificate.

(2) The proposed citation on the handwritten DA form 638 stated CPT Venezia dismounted to take prisoners "in the face of hostile fire" and with "reported enemy fire and burning vehicles" to his front. CPT Venezia was also credited with saving the lives of at least 4 American soldiers.

(3) The two statements and supporting narrative clarify that, while CPT Venezia's unit originally thought they were in contact with the enemy, once on the ground SGT Shumate and CPT Venezia discovered that the reported enemy were, in fact, fellow U.S. soldiers.

(4) According to the DA form 638, the statement, and the narrative, these actions occurred at Qalib Al Luhays Airfield, Iraq, at 0200, 27 February 1991.

(5) The BSM certificate contained a generic description of CPT Venezia's accomplishments on 27 February 1991 without referring to Qalib Al Luhays Airfield. (TAB 4)

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e. HQ, XVIIIth Airborne Corps and Fort Bragg permanent orders # 83-105, dated 2 May 1991, awarded the BSM with "V" device to CPT (now Major) David C. Bradshaw for "heroism involving conflict with an armed enemy" on 27 February 1991. A review of the awards packet revealed:

(1) The awards packet contained a handwritten and unsigned DA form 638, a 1st endorsement recommending approval signed by COL Starr, a handwritten statement dated 3 May 1991 with an illegible signature, an automated version of DA form 638, a narrative justification, an awards board worksheet signed by MG Scholes recommending approval, and a BSM certificate.

(2) The handwritten statement credited CPT Bradshaw with treating a wounded soldier on a medevac mission on 27 February 1991 in the vicinity of the Al Bussayah Northeast airfield. The mission successfully extracted one soldier wounded in action and one killed in action. The statement makes no mention of enemy fire but does cite restricted visibility. The statement also alludes to a mission on 26 February 1991 but does not mention CPT Bradshaw in connection with that incident.

(3) The two DA form 638's specify the location as Umm Hajal Airfield.

(4) The computer generated DA form 638 cited CPT Bradshaw's actions on 27 February 1991 in extracting wounded soldiers from the regimental front line area while the regiment was still "actively clearing the sector of enemy."

(5) The narrative justification cited CPT Bradshaw's participation on a medevac mission at 0430 hours on the morning of 26 February 1991. The narrative did not mention hostile fire but stated that the "regiment was still in contact and clearing small pockets of resistance" and that there was little or no ambient light and marginal weather conditions.

(6) The awards board worksheet specified dates of 17 Jan 91 - 7 Mar 91.

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(7) The BSM certificate contained a generic description of CPT Bradshaw's accomplishments on 27 February 1991 without referring to Qalib Al Luhays Airfield. (TAB 5)

f. SGT Shumate stated:

(1) He received the BSM with "V" device in a ceremony in May 1991 at Fort Bliss, TX. He was part of a group of soldiers receiving recognition. He never saw the award recommendation and was not sure when he first knew he had been put in for the BSM with "V" device.

(2) He was not aware of the provisions of AR 672-5-1 that valorous awards required conflict with an armed enemy.

(3) When he received the award, he thought it was for his overall performance while deployed as part of Operation Desert Storm. He was aware that other soldiers received the BSM for their overall performance.

(4) The first time he really understood what the award was for was when he was contacted by a representative of the GAO last month.

g. CPT Venezia stated:

(1) He received the BSM with "V" device in a ceremony at Fort Bragg, NC, in May 1991.

(2) Within a day or two of 27 February 1991, he was told by LTC Daly that he had been recommended for the BSM with "V" for his actions at Qalib Al Luhays airfield.

(3) He was not aware that conflict with an armed enemy was a prerequisite for valorous awards.

(4) CPT Venezia felt the award was justified nonetheless because his unit had received fire believed to come from the enemy and it was dangerous to exit the command track. He felt that some of the wounded U.S. soldiers would have died if he had not organized a medevac.

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h. Major (MAJ) Bradshaw stated:

(1) He received the BSM with "V" device at Fort Bliss after his return from Operation Desert Storm.

(2) He was generally aware that "combat" was a prerequisite for valorous awards.

(3) Within 3 or 4 days after the 27th of February 1991, he was aware that he had been put in for the BSM with "V" device. He thought that COL Starr or the 3rd ACR Executive Officer had recommended him. He was surprised because he thought he was just doing his job. He did not protest because he learned that others on the medevac mission were to receive BSM or Army Commendation Medals (ARCOM) with "V" devices.

(4) He understood that the award was for his actions on the night of 26-27 February 1991, not necessarily for the incident at the Qalib Al Luhay airfield. He recalled participating in two medevac missions that night but he was not sure if the Qalib Al Luhay mission was the first or the second. He said it was a very hectic and confusing night. The other mission was to evacuate wounded soldiers from a unit that was in contact with the enemy. During this mission, the helicopter received fire from Iraqi air defense.

i. MAJ Benard J. Kulifay, JR, stated:

(1) He was assigned as the Deputy Adjutant General (AG) of XVIIIth Airborne Corps and Fort Bragg from June 1990 to May 1993. The Corps AG during that time was COL Gary Gresh.

(2) In the weeks after the ground war ended, the Corps AG shop received and processed thousands of award recommendations. There was a great deal of pressure from commanders to turn the awards around quickly. It was also hectic because the corps was in the midst of redeployment.

(3) Upon receipt, award recommendations were screened by the award section consisting of a non-commissioned officer and a couple of clerks. They screened for administrative requirements and completeness.

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(4) Award recommendations that passed the administrative screening were sent to MG (then BG) Scholes with a cover sheet. MG Scholes reviewed the packets and signed the cover sheet as approved or disapproved. He neither approved nor disapproved some packets but directed that they be sent back to the unit for additional justification.

(5) Although the cover sheet was entitled "Awards Board Worksheet," no one else reviewed the recommendations. MG Scholes served as a one person board. Also, even though the cover sheet designated the action as a board "recommendation", in fact it was a final decision by MG Scholes. The recommendations went no further and action was taken based on MG Scholes' approval or disapproval of the award.

(6) After approval by MG Scholes, the award packets were boxed up for return to Fort Bragg. The Corps AG shop closed on Fort Bragg by the second week in May 1991. Once back at Fort Bragg, appropriate orders were cut and award certificates were prepared. Most of the certificates were signed by auto-pen although the Corps commander, LTG Luck, may have personally signed a few.

(7) Award recommendations received after redeployment were reviewed and voted on by a 3 person awards board consisting of MG Scholes; the Command Sergeant Major, and one other person. MAJ Kulifay could not recall the names of board members other than MG Scholes. Upon reviewing the award packets of SGT Shumate, CPT Venezia, and CPT Bradshaw, MAJ Kulifay concluded they had been processed in Saudi Arabia since the cover sheet did not include votes of board members other than MG Scholes.

(8) MAJ Kulifay was generally aware that conflict with an armed enemy was a prerequisite for a valorous award. The only explanation he could provide for how these BSM with "V" devices were approved was that they were missed due to the sheer volume of recommendations processed during that time.

j. COL Gresh stated:

(1) He was the XVIIIth Airborne Corps AG from May 90 to Jul 93.

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(2) The corps was extremely careful to follow established procedures on processing awards at the conclusion of Operation Desert Storm because it was an important and sensitive topic. There was no deviation from established procedures while they were deployed.

(3) All BSM recommendations were screened by the awards branch and then went to a four man board. The board did not sit "en banc" but rather circulated the files between offices. Each board member voted and indicated his vote on a voting sheet. These sheets should still be on file at XVIIth Airborne Corps.

(4) MG Scholes was the board president and the other members were COL (now BG) Akers, and the G2 and G4 of the Corps, whose names he could not recall. MG Scholes would have signed a sheet as the board president which was different than the sheet containing the votes of the board members. He was confident that MG Scholes did not function as a one member board and that the Corps Commander, GEN Luck, personally acted on every recommendation from the board. GEN Luck approved some awards, disapproved some, and even reconsidered and reversed himself on some actions. GEN Luck initialed the board recommendation worksheets to indicate he had seen them.

[IO NOTE: The award packets originally obtained from XVIIIth Airborne Corps each included an "awards board worksheet" which contained the board recommendation and the signature of BG Scholes as the board president. There were no worksheets reflecting individual board members' votes or GEN Luck's initials. Based on COL Gresch's statement, XVIIIth Airborne Corps files were rechecked; however, no additional documents were found.]

(5) MAJ Kulifay, the Deputy Corps AG and Chief of Personnel Actions, served as the board recorder and oversaw the award process and therefore was the best person to talk with concerning the procedures. MAJ Kulifay was much more involved with the awards process than he was and MAJ Kulifay was the one who took the packets to MG Scholes, answered questions about the recommendations, and retrieved the packets. He described MAJ Kulifay as an outstanding officer.

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(6) He was knowledgeable of the requirement that valorous awards be based on conflict with an armed enemy. He could not explain how BSM with "V" devices could have been approved for other circumstances. At Corps, they did not know much about instances of fratricide until after they had returned to Fort Bragg. He recalled the incident involving the 3rd ACR at the airfield being reported that night with casualties. At the time, he was under the impression that the incident had involved enemy contact as well as elements of the 3rd ACR "accidentally" firing on other friendlies.

(7) He took full responsibility for mistakes that may have been made and strongly recommended that the procedures of AR 672-5-1 be followed to revoke the awards.

k. LTC Patricia A. Sigle, Chief, Military Awards Branch, The Adjutant General Directorate, PERSCOM, stated:

(1) Army regulations do not require that commanders use a board to screen award recommendations.

(2) Regulations do not specify the number of members for an awards board if a board is used. MG Scholes could have served as a one man awards board for XVIIIth Airborne Corps.

(3) The Commanding General, XVIIIth Airborne Corps could not delegate approval authority to MG Scholes or anyone else. Award of the BSM would have required his personal approval even if MG Scholes had recommended approval.

4. DISCUSSION:

a. Since the commander of the 3rd ACR was a colonel, recommendations for the BSM would have had to have been forwarded to the Commanding General, XVIIIth Airborne Corps, for approval. MG Scholes could not have approved recommendations for the BSM because, at the time, he was not a Major General and not in command. Award of the BSM for members of the 3rd ACR required GEN Luck's approval. The delegation of approval authority and the award approval process did not distinguish between BSM and BSM with "V" device.

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b. Orders for the awards in question were HQ, XVIIIth Airborne Corps orders signed "For The Commander" and the BSM certificates bear GEN Luck's signature. Therefore, these awards were, for all intents and purposes, approved by GEN Luck.

c. The statements of MAJ Kulifay and COL Gresch were at odds on how award recommendations were processed at Corps headquarters in Saudi Arabia. MAJ Kulifay's explanation that MG Scholes served as a one man board and recommendations he approved did not have to go further was consistent with what the available documents indicated. COL Gresch acknowledged that MAJ Kulifay would be the best source of information on how the process worked. Therefore, MAJ Kulifay's statement was presumed to be more accurate.

d. The approval of award recommendations at Corps headquarters was understandably hectic given the field conditions, heavy workload, and impending redeployment. The process was expedited by having MG Scholes review the packets after only a preliminary screening by clerks.

e. A careful reading of the award recommendations for CPT Venezia and SGT Shumate revealed that they were not in contact with an armed enemy. The recommendation for MAJ Bradshaw was not as clear since, on 27 February 1991, he was exposed to enemy fire on a mission other than the medevac at Qalib Al Luhay airfield. At the time he read these award recommendations, MG Scholes most likely did not have a full understanding of the events of 27 February 1991 at Qalib Al Luhay airfield.

f. The combination of the above factors resulted in the approval of valorous awards for actions that did not involve conflict with an armed enemy. There was no evidence that any individual falsified information in the award recommendations. Likewise, there was no evidence that any individual approved a recommendation for a valorous award with the knowledge that the events described therein did not involve conflict with an armed enemy.

g. Regardless of the fact that there may have been no personal impropriety in the approval of these awards, the presentation of valorous awards to soldiers who did not meet

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the basic criteria was wrong. It lessened the value of valorous awards earned by fully deserving soldiers. In this case, it was a slap in the face to the survivors of the friendly fire incident and the family of the deceased soldier. The actions of MAJ Bradshaw, CPT Venezia, and SGT Shumate may have been deserving of some recognition, but not the BSM with "V" device.

5. CONCLUSIONS:

a. The allegation MG Scholes improperly approved valorous awards of the BSM was not substantiated.

b. The valorous awards of CPT Venezia and SGT Shumate should be revoked in accordance with paragraph 1-28a, AR 672-5-1. The valorous award of MAJ Bradshaw should be reviewed for possible revocation as well.

6. OTHER MATTERS: There were indications of a systemic problem in the approval of valorous awards for acts not involving conflict with an armed enemy. For example, the following members of I Troop, 3rd Squadron, 3rd ACR, received Army Commendation (ARCOM) Medals with "V" devices for the incident at Qalib Al Luhays Airfield on 27 February 1991:

Corporal Mark Valentine
Private First Class Patrick C. Gilmore
Private Derek Joseph
Specialist Christopher A. Hardman

(TAB 6)

7. RECOMMENDATIONS:

a. DAIG not investigate.

b. File as a miscellaneous action.

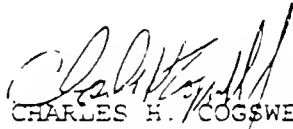
c. The Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA M&RA) be requested to take appropriate action to:

(1) Revoke the valorous awards identified in this preliminary analysis.


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(2) Identify and revoke other valorous awards improperly authorized for the incident at Qalib Al Luhays Airfield or other known fratricide incidents during Operation Desert Storm.

d. A copy of this preliminary analysis be approved for release to the ASA (M&RA).


CHARLES H. COGSWELL
Colonel, IG
Investigator

APPROVED Sig 7/26 DISAPPROVED _____ SEE ME ☒ _____


R. S. SIEGFRIED
Major General, USA
Deputy The Inspector General

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EXCEPT AS AUTHORIZED BY AR 20-1.



FORCE MANAGEMENT
POLICY

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ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000



JUN 26 1995

Mr. Richard C. Stienner
Director, Office of Special Investigations
U.S. General Accounting Office
Washington, DC 20548

Dear Mr. Stienner:

This is the Department of Defense response to the General Accounting Office (GAO) final report, GAO/OSI -95-10, "OPERATION DESERT STORM: Investigation of a U.S. Army Fratricide Incident" (GAO Code 600279/OSD Case 9913). In addition to the report recommendations, the response also addresses two specific issues raised by Senator Roth in his May 24, 1995, letter to this office.

It is the Department's position that the GAO report is essentially accurate and mirrors to a large extent the Army's investigation. The final Army report of investigation contains essentially the same evidence as was used by the GAO in preparing its report, with the exception of the audio tape provided to the GAO investigators. Further, with the exception of the issue of the awards presented to the 3rd Armored Cavalry Regiment personnel, the Commanding General, Forces Command, generally reached the same conclusions cited in the GAO report.

It is also important to note that issues raised concerning deficiencies present in both the initial and subsequent investigations were identified by Army senior leadership and corrected prior to any decision being made on the incident.

The enclosed response contains information not normally released under the Privacy Act and/or Freedom of Information Act and should not be released outside the GAO.

Sincerely,

F. Pang
F. Pang

Enclosures:
As stated



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Senatr

ommr

EXH

30

GENERAL ACCOUNTING OFFICE FINAL REPORT - GAO/OSI-95-10
(GAO CODE 600279) OSD CASE 9913

"OPERATION DESERT STORM: INVESTIGATION OF A
U.S. ARMY FRATRICIDE INCIDENT"

DEPARTMENT OF DEFENSE COMMENTS

RECOMMENDATIONS

RECOMMENDATION 1: The GAO recommended that the Secretary of the Army reexamine, for appropriateness, the disciplinary actions taken regarding the fratricide incident and the disposition of those actions. (p. 6, p.93/GAO Final Report)

DOD RESPONSE: Concur. Four officers involved in the fratricide incident received some form of administrative disciplinary action from the FORSCOM Commander: Colonel (retired) Douglas Starr, Lieutenant Colonel John Daly, former Captain B.H. Friesen, and former First Lieutenant Kevin Wessels. The first three officers received General Officer Memoranda of Reprimand. First Lieutenant Wessels received a General Officer Memorandum of Admonishment, not filed in his military personnel files.

In accordance with Army policy, the memoranda of reprimand were referred to the three officers for their comments prior to a decision whether the reprimands should be filed in official military personnel files. After considering the officers' comments, the FORSCOM Commander withdrew Captain Friesen's reprimand, determined not to file Colonel Starr's reprimand in his military personnel files, and filed Lieutenant Colonel Daly's reprimand in his military personnel records jacket for a period of one year from the date he reported to his job at the Office of the Deputy Chief of Staff for Operations and Plans, HQDA.

Of these four officers, only Lieutenant Colonel Daly remains in the Active Army. Colonel Starr voluntarily retired and the other two officers voluntarily resigned their commissions. Colonel Daly, whose actions were the focus of much of the criticism in the GAO report, is currently assigned to Headquarters, Department of the Army, and is therefore within the court-martial jurisdiction of the Commander, Military District of Washington (MDW).

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-2-

A copy of the GAO report and the prior Army investigations have been forwarded to the Commander, MDW for review and determination as to whether any further action is appropriate. This action is in accordance with Rule for Courts-Martial 306(b) contained in the Manual for Courts-Martial, United States, 1984, as most recently amended by Executive Order 12888, December 23, 1993. That rule provides that allegations of offenses should be disposed of at the lowest appropriate level by a commander with authority to direct disposition of the allegations. Until any action taken by the Commander, MDW, has been finalized, it would be inappropriate for the Secretary of the Army, as head of the Department of the Army, to review the appropriateness of any disciplinary actions taken against Lieutenant Colonel Daly. Although we cannot be specific as to when the Commander, MDW will complete his review, the Army anticipates that a decision will be made by September 1, 1995.

RECOMMENDATION 2: The GAO recommended that the Secretary of the Army follow up on the Army Office of the Inspector General request that improperly supported awards for participation in fratricide incidents be revoked. (p. 6, p. 93/GAO Final Report)

DOD RESPONSE: Concur. On April 18, 1995 the Army revoked the awards for valor issued to the seven recipients identified in the Army Office of the Inspector General (DAIG) report on the fratricide incident. The awards were revoked because they had been awarded for acts not involving conflict with an armed enemy. On the same date, awards were ordered for non-valorous achievement. On May 5, 1995, those awards also were revoked by direction of the Secretary of the Army pending further review. At that time, the Secretary announced that he would make the final decision on any award recommendations based on that review.

The Army is also reviewing all awards received by service members involved in fratricide incidents during Desert Shield/Storm to determine the propriety of those awards. Because award approval authority during a wartime environment is, for the most part, decentralized, records must be gathered from the files of various commands, both Active and Reserve. This process will take some time. The target date for completion of the preliminary review of Army files is August 1, 1995.

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It should be noted that the Army delegated the authority to approve awards to field commanders during Desert Storm. When such authority is delegated in the future, guidance concerning friendly fire incidents will be included and emphasized with the delegation.

ISSUE 1: Application of Army policy to this case.

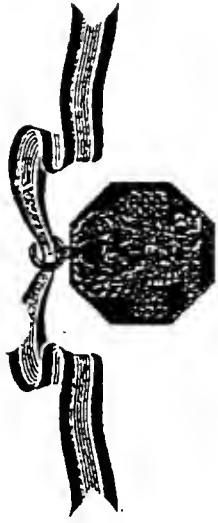
DOD RESPONSE: The Army's policy regarding non-criminal investigations is contained in AR 15-6, Procedure for Investigating Officers and Boards of Officers. The Army agrees with the GAO conclusion that there were deficiencies in the initial and subsequent investigations into this case. Although required by AR 15-6, the initial investigating officer did not conduct a complete and thorough investigation and the supplemental investigating officer's findings and recommendations were not supported by available evidence uncovered during the investigations.

The review process contained in AR 15-6 led to the identification of these deficiencies by Headquarters, Department of the Army, and senior Army leaders. This review process was, however, unnecessarily long and laborious. After identifying these deficiencies, the FORSCOM Commander ultimately was able to obtain the best available evidence and information regarding the incident. Based on the recommendation of his Staff Judge Advocate, the initial findings and recommendations were modified and approved by the FORSCOM Commander.

ISSUE 2: Adequacy of Army policy regarding non-criminal investigations including authority to initiate, selection of investigating officers, and investigative review procedures.

DOD RESPONSE: Army policy, contained in AR 15-6, is intended to ensure that non-criminal investigations are appropriately conducted. As a result of this investigation, the Army is taking a harder look at the overall investigative process contained in that regulation with a view towards re-energizing commanders on the overall process. Commanders need to be more aware of the investigative process and, in particular, of the need to seek legal advice early on.

Currently, AR 15-6 is undergoing revision as a result of lessons learned in the field, including lessons learned from this and other serious incidents. Several changes under consideration would mandate practices already in widespread use throughout the Army (as illustrated in this case), such as close staff judge advocate involvement in all complex investigations, referral of investigations directly involving a commander to the next higher level of command for action, and establishing additional criteria for selection of mature and experienced investigating officers.



Original not certified
no longer genuine
Serial 31

THE UNITED STATES OF AMERICA

TO ALL WHO SHALL SEE THESE PRESENTS, GREETING:

THIS IS TO CERTIFY THAT
THE PRESIDENT OF THE UNITED STATES OF AMERICA
AUTHORIZED BY ACT OF CONGRESS JULY 2, 1926
HAS AWARDED

THE SOLDIERS MEDAL

TO

SENCEANT DOUGLAS LANCE FIELDER

FOR
HEROISM

ON 27 FEBRUARY 1991, IN IRAQ

GIVEN UNDER MY HAND IN THE CITY OF WASHINGTON
THIS 29TH DAY OF JUNE 1995



Richard P. Smith
THE ADJUTANT GENERAL.

Geo. S. Davis
MEMBER OF THE ARMY



The President of the United States of America, authorized by Act of Congress, July 2, 1926, has awarded the Soldier's Medal to

SERGEANT DOUGLAS LANCE FIELDER
UNITED STATES ARMY

FOR HEROISM:

Sergeant Douglas Lance Fielder distinguished himself by conspicuous heroic action while assigned to C Company, 54th Engineer Battalion, 1st Armored Division during Operation Desert Storm. When Sergeant Fielder and a small element of his unit began receiving incoming fire in the early morning hours of 27 February 1991, he immediately took action to lead his soldiers to a covered position and to supervise the medical treatment of a wounded team member. While attending to his fellow soldier, he disregarded his own personal safety and was mortally wounded. Sergeant Fielder's selfless, courageous actions and his ultimate sacrifice are in keeping with the highest traditions of military service and reflect great credit on him, the 1st Armored Division and the United States Army.





DEPARTMENT OF THE ARMY
U.S. TOTAL ARMY PERSONNEL COMMAND
ALEXANDRIA, VA
22332-0471



REPLY TO
ATTENTION OF

PERMANENT ORDERS 180-11

29 June 1995

Following Order is revoked or rescinded as shown.

Action: Revoke

So much of: Permanent Order 91-42, U.S. Total Army Personnel
Command, Alexandria, Virginia 22332-0471, dated 30 May 1991
Pertaining to: Award of the Bronze Star Medal, with "V" device
to FIELDER, DOUGLAS L. 415-90-9294, SGT, C Company, 54th
Engineer Battalion, APO New York 09026
Authority: AR 600-8-22
Format: 705

BY ORDER OF THE SECRETARY OF THE ARMY:

Peter G. Dagnes
PETER G. DAGNES

DISTRIBUTION:

Next of Kin (1)
NPRC (1)
Files (3)

MAJ, GS
Chief, Military Awards Branch

Secrets Permanent Subcommittee
on Investigations
EXHIBIT # 32



DEPARTMENT OF THE ARMY
U.S. TOTAL ARMY PERSONNEL COMMAND
ALEXANDRIA, VA

22332-0471



REPLY TO
ATTENTION OF

PERMANENT ORDERS 180-10

29 June 1995

FIELDER, DOUGLAS L. 415-90-9294 SGT Company C, 54th Engineer
Battalion, APO New York 09026

Announcement is made of the following award.

Award: Soldiers Medal (Posthumous)
Date(s) or period of service: 27 February 1991
Authority: Paragraph 3-12, AR 600-3-22
Reason: For heroism
Format: 320

BY ORDER OF THE SECRETARY OF THE ARMY:

PETER G. DAGNES
MAJ, GS
Chief, Military Awards Branch

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Seaste Permanent Subcommittee
on Investigations

EXHIBIT # 33



DEPARTMENT OF THE ARMY
U.S. TOTAL ARMY PERSONNEL COMMAND
ALEXANDRIA, VA
22332-0471



REPLY TO
ATTENTION OF

PERMANENT ORDERS 181-4

30 June 1995

Following Order is revoked or rescinded as shown.

Action: Revoke

So much of: Permanent Order 83-112, Headquarters, XVIII Airborne
Corps and Fort Bragg, Fort Bragg, North Carolina
28307-5000 dated 2 May 1991

Pertaining to: Award of the Bronze Star Medal, to DALY, JOHN H.
Jr. 552-88-3186, LTC, MHT, 3d BN, 3d Armored
Cavalry Regiment, Fort Bliss, Texas 79916

Authority: AR 600-8-22

Format: 705

BY ORDER OF THE SECRETARY OF THE ARMY:

Peter G. Dages
PETER G. DAGES

DISTRIBUTION:

LTC Daly (1)
TAPC-MSR (1)
Files (3)

MAJ, GS
Chief, Military Awards Branch

Service Personnel Subcommittee
on Investigations

EXHIBIT # 34

WILLIAM V. ROTH JR., DELAWARE, CHAIRMAN
 TED STEVENS, ALASKA
 WILLIAM S. COHEN, MAINE
 FRED THOMPSON, TENNESSEE
 THAD COCHRAN, MISSISSIPPI
 CHARLES E. GRASSLEY, IOWA
 JOHN MCCAIN, ARIZONA
 BOB SMITH, NEW HAMPSHIRE
 JOHN GLENN, OHIO
 SAM NUNN, GEORGIA
 CARL LEVIN, MICHIGAN
 DAVID PRYOR, ARKANSAS
 JOSEPH I. LIEBERMAN, CONNECTICUT
 DANIEL K. AKAKA, HAWAII
 BYRON L. DORGAN, NORTH DAKOTA
 FRANKLIN G. POLK, STAFF DIRECTOR AND CHIEF COUNSEL
 LEONARD WEISS, MINORITY STAFF DIRECTOR

~~Senate Permanent Subcommittee~~
~~on Investigations~~

United States Senate

EXHIBIT # 35

COMMITTEE ON
 GOVERNMENTAL AFFAIRS
 WASHINGTON, DC 20510-6250

July 11, 1995

The Honorable Sara E. Lister
 Assistant Secretary for Manpower
 and Reserve Affairs
 Department of the Army
 The Pentagon
 Washington, D.C. 20310

Dear Secretary Lister:

This letter follows up on several matters that arose during the Army's June 29, 1995 testimony before the Permanent Subcommittee on Investigations at a hearing concerning the friendly fire death of Sergeant D. Lance Fielder.

During the hearing, the Subcommittee requested the prompt resolution of several outstanding issues. The Army indicated in each instance that it would take action on those issues expeditiously. So that we are kept informed of the progress made on each issue, the Subcommittee hereby requests that the Army provide it with the following information and documentation:

- A copy of the letter to Mr. Kevin J. Wessels retracting and apologizing for the April 14, 1992 letter of admonishment that he received from General Edwin H. Burba.
- Documentation regarding the withdrawal of the Bronze Star Medal with "V" device that was awarded to Sergeant Fielder, and documentation awarding him the Soldier's Medal.
- Written confirmation that the Army has corrected Sergeant Fielder's headstone to reflect accurately the awards he has received.
- Documentation regarding the Secretary of the Army's final decision on the revocation of the three Bronze Star Medals and four Army Commendation Medals awarded to soldiers who were present during the friendly fire incident.

Regarding Lt. Col. John H. Daly, Jr., the Subcommittee inquired about two additional matters for which we would like to receive prompt information:

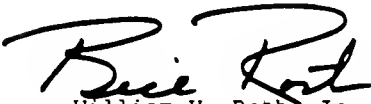
The Honorable Sara E. Lister
Page 2

- Any action taken on the Bronze Star Medal awarded to Lt. Col. Daly on May 2, 1991.
- Any disciplinary action taken or recommended against Lt. Col. Daly.

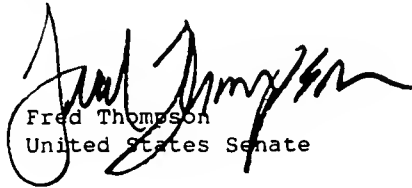
Please provide the requested information and documentation to Harold Damelin, the Subcommittee's Staff Director and Chief Counsel. You may contact him at (202) 224-3721 to coordinate this request.

Thank you for your prompt attention to this request.

Sincerely,



William V. Roth, Jr.
Chairman
Permanent Subcommittee
on Investigations



Fred Thompson
United States Senate



DEPARTMENT OF THE ARMY
U.S. TOTAL ARMY PERSONNEL COMMAND
ALEXANDRIA, VA
22332-0471



REPLY TO
ATTENTION OF

PERMANENT ORDERS 194-1

13 July 1995

Following Order is revoked or rescinded as shown.

Action: Revoke

So much of: Permanent Order 502-11, Headquarters, XVIII Airborne
Corps and Fort Bragg, Fort Bragg, North Carolina
28307-5000 dated 15 March 1991

Pertaining to: Award of the Bronze Star Medal with "V" device,
(3d Oak Leaf Cluster) to STARR, DOUGLAS H.
401-58-7437, COL, RHT, 3d BN, 3d Armored Cavalry
Regiment, Fort Bragg, North Carolina 28307

Authority: AR 600-8-22

Format: 705

BY ORDER OF THE SECRETARY OF THE ARMY:

PETER G. DAGNES
MAJ, GS
Chief, Military Awards Branch

DISTRIBUTION:

COL STARR (1)
ARPERCEN (1)
Files (3)

Secret: Distribution: Subsequent to
an investigation

EXHIBIT # 36



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
MANPOWER AND RESERVE AFFAIRS
111 ARMY PENTAGON
WASHINGTON DC 20310-0111



July 13, 1995

Senate Permanent Subcommittee
on Investigations

Mr. Kevin J. Wessels
14725 Portland Avenue, #118
Burnsville, MN 55306

EXHIBIT # 37

Dear Mr. Wessels,

The final report by the Government Accounting Office and the Army's findings with regard to the fratricide incident of 26 February 1990 in Iraq have convinced me that the letter of admonishment served upon you by Commander, FORSCOM was not justified. All evidence indicates that your actions that night to protect your soldiers were commendable.

On the behalf of the Secretary of the Army, I would like to apologize for any pain or embarrassment the letter has caused. I regret that it has taken so long to correct what is now so apparently wrong. General Griffith told me you were a fine soldier who did your duty well. The Army misses your service.

I have provided General Burba a copy of this letter.

Sincerely,

Sara E. Lister

Sara E. Lister
Assistant Secretary of the Army
(Manpower and Reserve Affairs)



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
MANPOWER AND RESERVE AFFAIRS
111 ARMY PENTAGON
WASHINGTON DC 20310-0111

July 24, 1995



Honorable William V. Roth
Chairman, Senate Permanent Subcommittee
on Investigations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This letter serves as an interim response to your correspondence of July 11, 1995, requesting information and accompanying documentation of actions taken by the United States Army following the Senate Hearing into the friendly fire death of Sergeant D. Lance Fielder.

I have sent a personal letter of apology to Mr. Kevin J. Wessels apologizing for the April 14, 1992, letter of admonishment that he received from General Edwin H. Burba. A copy of this letter is attached at TAB A.

The Army immediately withdrew the Bronze Star Medal with "V" device awarded to Sergeant Fielder. Sergeant Fielder's family was awarded his Soldier's Medal at a presentation ceremony held in Memphis, Tennessee, on July 13, 1995. Command Sergeant Major Richard B. Cayton, U.S. Army Forces Command, and Command Sergeant Major, 1st Armored Division during Operation Desert Storm (Sergeant Fielder's unit), presented the award. Copies of the award actions are attached at TAB B.

On June 30, 1995, the Secretary of the Army, the Honorable Togo D West, Jr., revoked the Bronze Star awarded to Lieutenant Colonel Daly. Additionally, Mr. West directed revocation of the Bronze Star with "V" device awarded to Colonel (Retired) Douglas H. Starr, Commander of the 3d Armored Cavalry Regiment at the time of the incident. This revocation was effective on July 13, 1995. Copies of these orders are attached at TAB C.

The Department of Veterans Affairs is currently preparing a new headstone for the grave of Sergeant Fielder. We have coordinated with Mrs. Harris to ensure that the wording is to her satisfaction and accurately reflects the awards Sergeant Fielder received. The headstone should be in place by August 1, 1995.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 38

-2-

I will notify you of the Secretary of the Army's final decision on the revocation of the three Bronze Star Medals and four Army Commendation Medals awarded to soldiers who were present during the friendly fire incident and on any disciplinary action taken or recommended against Lieutenant Colonel Daly.

If I may be of further assistance, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sara E. Lister".

Sara E. Lister
Assistant Secretary of the Army
(Manpower and Reserve Affairs)

Enclosures



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
OFFICE OF THE REGIONAL DEFENSE COUNSEL
FORT GEORGE G. MEADE, MARYLAND 20755

August 10, 1995

Trial Defense
Service

Mr. Harold Damelin
Chief Counsel and Staff Director
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Mr. Damelin:

Enclosed is a corrected copy of the transcript of Lieutenant Colonel John H. Daly's testimony before the Permanent Subcommittee on Investigations of the United States Senate Committee on Governmental Affairs regarding the investigation of a friendly fire incident in the Persian Gulf War. Corrections have been made on the transcript in red ink as you requested in your letter of July 11 to Lieutenant Colonel Daly. Also enclosed are 21 pages of material for insertion in the record. Each page for insertion includes a reference to the page and line number of the transcript where it should be placed; the transcript has also been marked to indicate where insertions for the record should be placed.

We request a copy of the corrected transcript with the material inserted for the record when it has been completed. If possible, please send us a copy of the complete Senate report when it is completed. If you have questions or require additional information, please contact me.

Sincerely,

James P. Gerstenlauer
Lieutenant Colonel, U.S. Army
Regional Defense Counsel

Copy Furnished:

Lieutenant Colonel Daly

Senate Permanent Subcommittee
on Investigations

39

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
June 29, 1995

-

However, I am currently on a list with only my name on it. That list is held in abeyance pending completion of a promotion review board.

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 39a

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
June 29, 1995

A review of the AR 15-6 testimony shows that the information on friendlies in the area was limited to the Regimental Staff and above. Neither LTC Hardy, Commander of the First Squadron, nor LTC Rowan, the Regimental Fire Support Battalion Commander, nor my staff (who were also listening to the Regimental Command Radio Net), nor I knew of friendlies in the area. This was not localized to something I had failed to pass on. It was something that neither my peers nor subordinates understood from listening to the Regimental radio nets.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 396 _____

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
June 29, 1995

The buffer zone discussion makes a great deal of sense if the two units are side by side or if the 1st AD is in front of the 3 ACR because it would have better separated the two units and lessened the chances of what happened occurring. However, if viewed from the way I thought we were arrayed, with 3 ACR well to the front, it does not make sense. It seemed to be an academic discussion without relevance to our situation since stray rounds would have fallen in empty desert or in enemy held territory.

Senate Permanent Subcommittee on Investigation

EXHIBIT # 39c

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
June 29, 1995

The key point to remember is that we believed that the Iraqis had the American-made M-548 in their arsenal. My initial statement on 28 February 1991 indicates that I thought the Iraqis had obtained the M-548 through the foreign military sales program (FMS), whereby we the United States sell military equipment to foreign governments. The GAO report at page 41 corroborates that the Regiment had intelligence reports indicating that the Iraqis had vehicles which looked similar to the M-548 in their inventory. In the context of the war and the numerous missions we were given, the M-548 did not seem out of place. However, I have consistently stated that when we joined I Troop we were confronted with a burning building. At that point, we did not believe there was a vehicle of any kind, just a burning building.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 39d

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
June 29, 1995

Although I have not been provided with all the testimony gathered by either the GAO or the Army, a review of the testimony provided by the Army of the other Troop Commanders' and of my staff reveals that with the exception of CPT Friesen and CPT Offen, we understood the mission. The orders had been disseminated to the Troop Commanders.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 39e

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
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For the record, I have repeatedly asked for this information. Written requestes were made to the GAO:

in November 1994,
on February 3, 1995,
on June 5, 1995,
on June 15, 1995, and
on June 26, 1995.

Written requests were also made of Department of the Army:
on June 6, 1995 and
on June 26, 1995.

Additionally, numerous personal and telephonic requests were made to both agencies. And, requests were made to this Committee for assistance in obtaining the needed documents from the GAO.

SECRET
NO FORN DISSEM

39f

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
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(Page 99 and 101 of the GAO Report)

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EXHIBIT # 399

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The GAO timeline is documented at page 31 of their report. Although it purports to be very specific, it, too, is only an estimate because it is based on the tape recording. The transcript of that recording indicates the tape recorder was turned off or placed on pause for several indeterminate periods of time (GAO report page 94). The GAO report at page 94 also indicates that the tape recording was edited.

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EXHIBIT # 394

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A "net" is short for a network of people using radios to talk to one another. Captain Friesen operated or ran a troop network which consisted of his subordinates. And he listened to a squadron net which consisted of my subordinates.

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EXHIBIT # 39i

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
June 29, 1995

(Page 98 of the GAO Report)

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EXHIBIT # 39j

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Refer to GAO Report on page 61 where the GAO establishes that CPT Friesen's testimony that the warning shots were fired at a 45 degree angle, was inconsistent with the testimony of the engineers whom he fired upon.

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EXHIBIT # 39k

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
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Sir, you stated that I moved south and that I knew of the boundary. We moved south and south of the boundary at the direction of the Regimental Commander who sent both I Troop and later me into the fenced-in area to determine what was there. I obtained his permission to fire warning shots to the south. I viewed this as a new task as well as a continuation of the previous mission.

You also stated that I knew 1st AD was to the south. I knew in general terms that 1st AD was to the south. We did not know their exact location but did not suspect that they were in this immediate vicinity. We had previously been told to attack an airfield with a battalion of dug in Iraqi in the area. My Intelligence Officer repeatedly asked the Regiment for the enemy situation and repeatedly was told that there were expected enemy in the area. This can be confirmed by his testimony to BG Halley as well as by Major Martin's testimony to both BG Halley and the GAO. Both LTC Hardy, Commander of 1st Squadron, and LTC Rowan, Commander of Regiment's support artillery battalion, confirm in their testimony that we did not know of friendlies in the area and also expected the enemy to be present.

You also stated that I had identified an American made vehicle. The presence of an American made vehicle is being cited as a clear indication that there were Americans not Iraqis in the area. This is wrong. The Iraqis had, to our knowledge at the time, US equipment in their inventory. The GAO report states the Regiment had the intelligence reports that there were American made vehicles in the Iraqi inventory. Whether they were obtained through the Foreign Military Sales program or through second party sales, our intelligence reports told us that this equipment was present. The presence of an American made vehicle was consistent with the presence of Iraqi troops. And, we did not identify them as Americans until after the fatal shots were fired per the testimony to Army investigators by Sergeants Ruch and Hunt.

You said that I did not get an assessment from CPT Friesen. As stated earlier, I asked CPT Friesen for situation reports. The GAO tape shows on page 98 of the GAO report that I had asked for CPT Friesen's "situation reports" or in lay terms "his assessment." This was a request for him to tell me what was going on; to provide his assessment. Even the GAO concludes on page 41 that I was asking for reports.

You stated that I had been told not to fire until we confirmed the enemy. Whether COL Starr told me twice to confirm that the combatants to our front were enemy or not, we took more than prudent steps to confirm their status and to allow them to surrender. Warning

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THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
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shots were fired (although the GAO concluded at pages 61-62 that CPT Friesen fired at the vehicle), time was allowed to elapse, and tapes asking them to give up were played. This is far more than was normally being done elsewhere in either XVIII Corps or in VII Corps. We were not there as policemen; we were soldiers at war in an area that we believed had a dug in battalion of Iraqi that we had not yet seen. One can minimize the threat of one or two dismounted soldiers on the ground until that soldier uses a hand held missile to destroy one of the our vehicles. Sergeant Wolborski's testimony and Major Martin's clearly show that we believed this was possible. My obligation to my soldiers required me to protect them; I could not wait to act against what we believed were hostile enemy soldiers until after they destroyed our vehicles or killed our soldiers.

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
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Sir, you stated that CPT Friesen was not asked for an assessment of the situation. As stated earlier, I asked CPT Friesen for situation reports. The GAO tape shows on page 98 of the GAO report that I had asked for CPT Friesen's "situation reports" or in lay terms "his assessment." And, the GAO on page 41 of their report came to the same conclusion. This was a request for him to tell me what was going on; to provide his assessment.

You state that CPT Friesen did not know we were coming. On page 62 of his testimony to the GAO, CPT Friesen stated that he knew we were coming forward. Although he later contradicts this testimony, had he been listening to the Squadron Command net he would have known we were moving forward to his position. Upon receiving the order from the Regimental Commander to go down to I Troop's location inside the fence as the Regimental Commander had previously directed, at a minimum I had a radio conversation with my S3 and with the other elements of the "command group." I did not want to take the entire 5 or 6 vehicles with me as I expected that we would continue the attack to the east as soon as we had checked out this fenced in area. On the Squadron command net, I told them to stay in place while I went south and I received an acknowledgment from the rest of the "command group." My Fire Support Officer's testimony and my Operations Officer's (S3's) testimonies confirm this. CPT Friesen would have heard this series of conversations on the squadron command net. As explained, he was required to be listening to this net. This was on the radio he states in the GAO report that he turned off.

CPT Friesen has also stated that he almost shot me. However, he did not shoot if for no other reason than he was able to correctly identify my two M2 Bradley Fighting Vehicles. He would have also violated the cease fire I imposed on my subordinates per the GAO report tape transcript.

You state that CPT Friesen almost shot the two men who dismounted. CPT Friesen did not fire because he was able to identify these two soldiers as American from the equipment they were wearing. This is something that the various testimonies of those at the scene say was not possible with the Engineers because they were not all wearing this equipment. Although the reports differ, in the case of CPT Friesen not shooting the two observers from my vehicle it is clear that he did not shoot because he identified them as Americans coming from my vehicles.

Joint Permanent Subcommittee
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EXHIBIT # 39m

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
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I also need to clarify the perception that I just wanted to "pump a few rounds." I understand his perception but he was not in a position to observe what was going on in my turret or on the Squadron Command Radio nets. A review of the testimony to Army investigators of my staff and others in better positions to observe me paint a far different and more accurate picture of my caution and hesitancy to fire.

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2180. 2181. 2182. 2183. 2184. 2185. 2186. 2187. 2188. 2189. 2190. 2191. 2192. 2193. 2194. 2195. 2196. 2197. 2198. 2199. 2200. 2201. 2202. 2203. 2204. 2205. 2206. 2207. 2208. 2209

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
June 29, 1995

There seems to be some confusion over why the wearing of the helmets is critical. It is because of the distinctive shape of the U. S. helmet. Its shape would have been easier to identify. Note the two shapes:



U. S. Kevlar
Helmet



Iraqi
Helmet

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 390

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
June 29, 1995

CPT Friesen in his statement to the GAO, which was reluctantly provided to me the night before this hearing, said that he was also concerned about the dismounted "enemy" troops having anti-tank weapons. This concern was considered valid by all of us as a single soldier with an anti-tank weapon at close range could destroy one of our vehicles and kill several of our men before we could stop him. This was a self-protection issue for us.

Senate Permanent Subcommittee
on Investigations

Page # 39p

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
June 29, 1995

Although CPT Friesen told you today he had everything under control, his sworn statement to the Army Investigators said that he was worried about dismounted enemy troops and the remainder of the Iraqi battalion that was supposed to be in the area. This was confirmed by SSG Ruch. But, after the warning shots were fired according to page 100 of the GAO Report, Black 6 (CPT Friesen) says "Blue, pump a couple of rounds into that building. There's still some guys in there." Even after the fatal shots were fired, CPT Friesen was concerned about the troops on the ground as enemy and directed "Blue" to move behind the building and "go after those guys." Page 105 of the GAO Report.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 399

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
June 29, 1995

The premise that it was under control is incorrect. We had what appeared to be excessive firing; we now know CPT Friesen turned off his radio because of the confusion; we can see from the GAO Report tape transcript a fair amount of undisciplined radio chatter in CPT Friesen's Troop; and we have warning shots that ignited "the building." So, from this perspective, it does not appear that CPT Friesen had everything under control.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 39

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
June 29, 1995

There is nothing remarkable about the presentation dates being the same. Large organizations, both civilian and military, often try to hold awards ceremonies at one time to recognize the deserving in front of their peers and associates. This ceremony was no different in that awards were presented to numerous people for a variety of reasons. The significant dates are the ones on the award certificates and orders which indicate whether the award was given for a particular day and event or for a period of time. In fact, people familiar with the awards process would recognize that CPT Venezia's award was presented for his personal heroism on 27 February. This is in contrast to my award which was presented for a period of service from October 1990 to March 1991. Our awards certificates reflected this distinction.

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 395

THE INVESTIGATION OF A FRIENDLY FIRE INCIDENT DURING THE PERSIAN GULF WAR
June 29, 1995

There were five people on my Bradley Fighting Vehicle:

CPT Venezia (observer);
SGT Shumate (observer),
SGT Nelson (driver),
SSG Wolborski (gunner),
and me (vehicle commander).

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 39+

GAO

United States
General Accounting Office
Washington, D.C. 20548

Office of Special Investigations

August 18, 1995

The Honorable William V. Roth, Jr.
Chairman, Permanent Subcommittee
on Investigations
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

During the June 29, 1995, hearing before the Subcommittee concerning events leading to a Persian Gulf War fratricide incident and the resulting U.S. Army investigations, Senator Fred Thompson requested GAO to submit for the record our recommendation as to how these kinds of investigations should be conducted in the future. However, in her statement to the Subcommittee at the hearing, the Assistant Secretary of the Army (Manpower and Reserve Affairs), Ms. Sara E. Lister, noted that the regulation governing these investigations, Army Regulation (AR) 15-6, is "currently under review" and that "the Army will ensure that a revised AR 15-6 gives Commanders even clearer guidelines to follow in such investigations to ensure the problems identified in this case are not repeated."

We believe it would be appropriate for the Army to complete its review and revisions, as indicated by Assistant Secretary Lister, before we evaluate the matter. Given the Subcommittee's and the Army's attention to this situation, we are hopeful that the procedures established by the revised AR 15-6 will ensure that future investigations are conducted properly. We will continue to monitor the Army's progress and will coordinate our assessment of the revisions with your staff as appropriate.

Sincerely yours,



Richard C. Stiener
Director

Senate Committee

EXHIBIT 40



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
MANPOWER AND RESERVE AFFAIRS
111 ARMY PENTAGON
WASHINGTON DC 20310-0111



August 28, 1995

Honorable William V. Roth
Chairman, Senate Permanent Subcommittee
on Investigations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This serves as a follow up to my July 24, 1995, letter in response to questions posed by the Subcommittee on Investigations as result of the Senate Hearing into the friendly fire death of Sergeant D. Lance Fielder.

The Commanding General, Military District of Washington, Major General F. A. Gorden, issued an administrative reprimand to LTC Daly on July 19, 1995, for providing misleading information in an award recommendation for a subordinate involved in the friendly fire incident and for failing to exercise the necessary leadership and professional Integrity expected of senior military officers in the United States Army. Major General Gorden has directed filing of the memorandum of reprimand in LTC Daly's official military personnel file.

This information is not normally made available to the public under the provisions of the Freedom of Information and Privacy Acts. It is released to the Committee on Governmental Affairs pursuant to its oversight responsibilities. We ask that it not be further released, and that access be limited to those with an official need to know.

I will notify you of final actions taken to resolve any other outstanding issues in this case as soon they are completed.

If I can be of further assistance, please let me know.

Sincerely,

Sara Lister

Sara E. Lister
Assistant Secretary of the Army
(Manpower and Reserve Affairs)

Senate Committee on Investigations
EXHIBIT # 41

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REPLY TO
ATTENTION OFDEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
MANPOWER AND RESERVE AFFAIRS
111 ARMY PENTAGON
WASHINGTON DC 20310-0111

August 28, 1995

Honorable Fred Thompson
United States Senate
Washington, DC 20510

Dear Senator Thompson:

This serves as a follow up to my July 24, 1995, letter in response to questions posed by the Subcommittee on Investigations as result of the Senate Hearing into the friendly fire death of Sergeant D. Lance Fielder.

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I will notify you of final actions taken to resolve any other outstanding issues in this case as soon they are completed.

If I can be of further assistance, please let me know.

Sincerely,

Sara E. Lister
Assistant Secretary of the Army
(Manpower and Reserve Affairs)Sara E. Lister
Assistant Secretary of the Army
(Manpower and Reserve Affairs)

EX-100 42

FRED THOMPSON
TENNESSEE

Senate Intelligence Subcommittee

WASHINGTON, D.C.

EXHIBIT

43

United States Senate

WASHINGTON, DC 20510-4204

September 20, 1995

The Honorable Togo D. West, Jr.
Secretary
Department of the Army
The Pentagon
Washington, D.C. 20310

Dear Secretary West:

I am writing to express my serious concern about the Army's handling of a disciplinary matter related to the friendly fire death of Sergeant D. Lance Fielder.

On Friday, September 7, I received a letter from Assistant Secretary of the Army Sara Lister indicating that Major General F.A. Gorden of the Military District of Washington had issued an administrative reprimand to Lieutenant Colonel John H. Daly for conduct related to the incident and its aftermath. A copy of that letter is enclosed. In her letter, Secretary Lister indicated that the memorandum of reprimand will be made part of Lt. Col. Daly's official military personnel file.

As I am sure you are aware, the General Accounting Office and the Senate Committee on Governmental Affairs' Permanent Subcommittee on Investigations (the "PSI Subcommittee") have both conducted exhaustive investigations of the circumstances surrounding Sgt. Fielder's death and the events that occurred afterwards. Both of those investigations yielded a good deal of information that has not been disputed by any of the participants in the incident.

Both the GAO and the PSI Subcommittee found that, during the incident, Lt. Col. Daly failed to exercise proper command and control over his troops. Specifically, the facts showed that Daly violated a cease fire and the stated Rules of Engagement in the area by firing upon the engineers of the VII Corps, 1st Armored Division.

After the incident, Lt. Col. Daly attempted to engage in a cover-up by asking subordinates to maintain silence about the facts as they occurred on the battlefield. In addition, Daly provided inaccurate factual material to superiors to support the awarding of medals for actions taken during the friendly fire

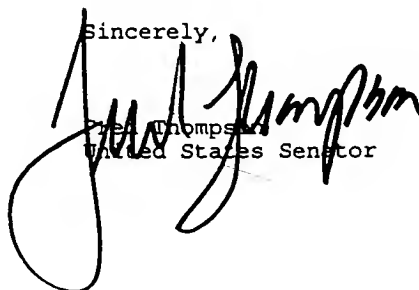
incident. Finally, at the Governmental Affairs Subcommittee hearing on June 29, Daly claimed not to be aware that his own medal was awarded at least in part for actions taken during the friendly fire incident.

Taken together, the investigative record provides strong evidence that Lt. Col. Daly at the very least acted negligently during the incident and with dishonesty afterwards. I am sure you would agree that such conduct is not suitable for an officer in the United States Army. Despite this evidence, it would appear that Major General Gorden has delivered no more than a slap on the wrist.

Given the importance of this case to the Fielder family and to the Army's credibility as an institution, I ask that you take personal responsibility for this disciplinary action. Specifically, I ask that you provide to me, in writing, the disciplinary options, as set out in Army regulations, that were available to Gen. Gorden, and the reasons why the option selected is in your view the appropriate one. In addition, I ask that you provide me with any response to the action that Lt. Col. Daly may have submitted to General Gorden.

At the PSI Subcommittee's June 29 hearing, Secretary Lister and Army Vice Chief of Staff General Griffith committed on the record and under oath to provide this information in an expedited fashion. Therefore, I would appreciate your prompt attention to my request. Thank you.

Sincerely,


John Thompson
United States Senator

FDT: cmcm
Enclosure

cc: Senator William V. Roth, Jr.



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